BETWEEN LAW AND REALITY: AFGHAN WOMEN'S RIGHT TO WORK UNDER INTERNATIONAL HUMAN RIGHTS LAW AND ITS IMPACT ON DAILY LIFE AFTER 2021

THESIS

Arranged By:

PARWANA RAHMANI

Student Number: 24912107

INTERNATIONAL PROGRAM

MASTER'S PROGRAM IN LAW

FACULTY OF LAW

UNIVERSITAS ISLAM INDONESIA

YOGYAKARTA

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THESIS

Presented as the Partial Fulfilment of the Requirements to Obtain

a Master's Degree at the Faculty of Law,

Universitas Islam Indonesia,

Yogyakarta

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INTERNATIONAL PROGRAM

MASTER'S PROGRAM IN LAW

FACULTY OF LAW

UNIVERSITAS ISLAM INDONESIA

YOGYAKARTA

2026

بسم الله الرحمن الرحيم

BETWEEN LAW AND REALITY: AFGHAN WOMEN'S RIGHT TO WORK UNDER INTERNATIONAL HUMAN RIGHTS LAW AND ITS IMPACT ON DAILY LIFE AFTER 2021

Telah diperiksa dan disetujui Dosen Pembimbing Tugas Akhir untuk diajukan ke depan TIM Penguji dalam Ujian Tugas Akhir / Pendadaran pada tanggal 27 Agustus 2026

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BETWEEN LAW AND REALITY: AFGHAN WOMEN'S RIGHT TO WORK UNDER INTERNATIONAL HUMAN RIGHTS LAW AND ITS IMPACT ON DAILY LIFE AFTER 2021

Telah Dipertahankan di Hadapan Tim Penguji dalam
Ujian Tugas Akhir / Pendadaran
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MOTTO

"All human beings are born free and equal in dignity and rights."
Universal Declaration of Human Rights, Article 1

"Women's rights are human rights."
Hillary Clinton

"No society can achieve justice while half of its population is denied of their basic human rights"
Parwana Rahmani

DEDICATION

I would like to dedicate this thesis to all Afghan women and girls, who stood bravely towards injustice and their resilience, dignity, and determination continue to inspire the pursuit of justice and equality.

I Devote this study, to every woman around the world who has been denied the opportunity to learn, to work, to contribute, and to live with dignity, yet they are bravely stand against inequality and support each other.

I dedicate this thesis to cherished the memory of my beloved father, whose love, wisdom, and memory continue to guide and inspire me. May his soul rest in peace. I also would like to devote this work to my beloved mother, whose unconditional love, countless sacrifices, and unwavering support have given me the strength and courage to persevere throughout this journey, even in the most difficult moments.

May this work serve as a voice for those whose voices have been silenced and as a reminder that the rights to dignity, equality, and opportunity belong to every human being, regardless of any difference that they might have.

ORIGINALITY STATEMENT

STATEMENT LETTER

DECLARATION OF ORIGINALITY OF SCIENTIFIC WORK

(FINAL THESIS)

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hereby declare that I am a student of the Faculty of Law, Universitas Islam Indonesia, and that I have prepared and submitted my thesis under the following title: **Between law and reality: Afghan women's right to work under international human rights law and its impact on daily life after 2021**

I submit this thesis to the Board of Examiners in the final examination conducted by the Faculty of Law, Universitas Islam Indonesia.

In relation to the above, I hereby declare that:

1. This scientific work is entirely the result of my own work and research, and in the process of writing it, I have complied with all applicable rules, ethical

principles, and academic norms governing the preparation of scholarly works in accordance with prevailing regulations and standards.

2. I affirm that this scientific work is wholly original and does not contain any form of plagiarism.
3. Although, in principle, the ownership of this scientific work belongs to me, for academic purposes and its further development, I grant permission to the Law Library of Universitas Islam Indonesia and the libraries within Universitas Islam Indonesia to use this scientific work in a reasonable manner and for non-commercial purposes.
4. In addition to the foregoing, particularly the statements set forth in paragraphs 1 and 2, I declare that I am prepared to accept any administrative, academic, or even criminal sanctions if it is conclusively and convincingly proven that I have committed scientific misconduct that contradicts the aforementioned statements.

   I further agree to cooperate fully in any proceedings by appearing when required, providing clarification, presenting evidence, defending my rights and obligations, and signing any official minutes related thereto before the Committee of the Faculty of Law, Universitas Islam Indonesia, as appointed by the Dean of the Faculty, should any indication or allegation of plagiarism in this scientific work be identified or reported by the Faculty of Law, Universitas Islam Indonesia.

I hereby make and sign this statement truthfully, in sound physical and mental condition, with full awareness, and without any pressure from any person or institution.



Yogyakarta, August 15, 2026

The Declarant, Signature



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ACKNOWLEDGEMENT

Assalamu'alaikum Wr. Wb.

Alhamdulillahirabbil'alaaamiin

In the name of Allah, the Most Gracious, the Most Merciful

All praise be to Allah, Lord of the Universe; there is no God but Him.

I would like to express my deepest gratitude to Almighty Allah for giving me the strength, patience, and perseverance to complete this thesis.

I am sincerely grateful to my supervisor Professor. Dr. Sefriani, S.H., M.Hum, for her invaluable guidance, constructive feedback, patience, and continuous support throughout the research process. her academic advice and critical insights significantly contributed to the development and completion of this thesis.

I would also like to extend my sincere appreciation to Professor. Dr. Sefriani, S.H., M.Hum., Professor. Dra. Sri Wartini, S.H., M.Hum., Ph.D., and Dr. Eko Riyadi S.H., M.H. acting as the examiners of the author's final project, providing valuable feedback and guidance throughout the writing process.

I want to extend my sincere appreciation to *Universitas Islam Indonesia (UII)* for providing me with the academic environment and resources necessary to pursue my Master's degree. I am particularly grateful to the *Raoul Wallenberg Institute (RWI)* for providing the scholarship that enabled me to undertake my studies and continue my academic journey.

I express my deepest gratitude to my family, particularly my beloved mother, for her unconditional love, sacrifices, prayers, and unwavering support throughout my studies. I am equally grateful for the cherished memory of my father, whose love and guidance continue to inspire me.

I express my heartfelt gratitude to Ms. Thamindri De Silva, my mentor, whose invaluable guidance, unwavering support, and constant inspiration have profoundly influenced both my academic journey and my life.

I would like to express my profound appreciation to all the Afghan women who actively participated in the survey and generously shared their experiences, perspectives, and insights. Their courage and willingness to contribute greatly enriched the study.

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Finally, I want to Thank everyone who directly or indirectly contributed into completion of this thesis.

Wassalamu'alaikum warahmatullahi wabarakatuh.

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Yogyakarta, August 15, 2026

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LIST OF ABBREVIATION'S

CEDAW : Convention on the Elimination of All Forms of Discrimination Against Women

ICCPR : International Convention on Civil and Political Rights

ICESCR : International Covenant on Economic, Social, and Cultural Rights

UN : The United Nations

UNICEF : The United Nations Children's Fund

UDHR : The Universal Declaration of Human Rights

NGOs : non-governmental organizations

IEA : The Islamic Emirate of Afghanistan

HDI : Human Development Index

ILO : International Labor Organization

DFA : De facto authority

ABSTRACT

It may seem strange that, even in the twenty-first century, despite the remarkable progress and achievement that human being has, there are still places in the world where women are deprived of their fundamental rights. Since the Taliban came to power, they have systematically prohibited Afghan women from participating in the workforce in both the public and private sectors, with the exception of a limited number of professions, such as teaching at the primary schools and working as medical doctors. Legal research often focuses on legal aspects by identifying the certain provisions of legal instruments that have been violated, while the social part or actual impacts of those violations are frequently remain overlooked. In contrast, the present thesis adopts a combination of socio-legal and doctrinal legal research methods to demonstrate that human rights violations extend beyond the breach of legal provisions. Rather, the impacts that appear as result of the violation of a human right are equally significant and must be taken into consideration.

The current thesis utilizing the Natural law, human rights and government legitimacy theories explores to answer three main questions Including: a) how does international human rights law protect Afghan women's right to work following the Taliban's return to power after 2021? b) to what extent is the Taliban, as a de facto authority are bound by international human rights obligations concerning Afghan women's right to work? c) what are the most psychological, economic and social impacts of the Taliban's restrictions on women's right to work in Afghanistan?

This research argues that the restrictions imposed by the Taliban and the denial of Afghan women's right to work is an explicate violations of international human rights law, including the Universal Declaration of Human Rights (UDHR) 1948, the International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966, the International Covenant on Civil and Political Rights (ICCPR) 1966, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 1979, and relevant International Labour Organization (ILO)

conventions, particularly Convention No. 111 on Discrimination (Employment and Occupation). Furthermore, the author argues that the Taliban regime, as an armed non-state actor, are obliged to respect and uphold women's rights, particularly right to work. It's important to mention that Afghanistan is a State Party to numerous international human rights treaties aimed to protect and promote women's rights as well as to prevent any discrimination, including the ICESCR, CEDAW, and the ICCPR.

KEYWORDS:

International Human rights law, Afghan Women's right to work, de facto obligations, government legitimacy, state continuity principle

CHAPTER I

INTRODUCTION

A. Background of Study

"Life is getting more difficult every day. I wish the Taliban would let women work for the government or foreign organizations. Many women don't have a husband to provide for them and have to find ways to provide for their children."[1]

Maryam is one of the numerous Afghan women who have lost their jobs since the Taliban regained control in August 2021. Maryam was employed in an international organization before Taliban regime. Subsequent to her employment ban and job loss, Maryam got a Karachi (handcart) and she is currently busy as a street peddler. She has been consistently disturbed by the Taliban from accessing the main street. Taliban stated that women should refrain from working alongside non-*Mahrams*. She had to sign a paper restricting her access to main streets several times; nevertheless, she contends that she has no choice but to traverse the main streets due to the absence of consumers in other areas. Maryam is breadwinner for eight family members, including six girls, one boy, and herself. She lost her spouse in a suicide bombing. She earns 150 to 200 afghanis (1.75 to 2.3 USD) each day, which she spends it to fulfill her family's essential needs, including purchasing bread.[2]

Afghan Women have been systematically excluded from all public domains as a result of the Taliban's discriminatory policies and practices. [3] Taliban have

[1] Anselma Ellingwood, "Afghan Women Face Economic Challenges—Three Personal Stories of Resilience and Hardship amidst Taliban Bans.," *Feminist Majority Foundation*, July 31, 2023, https://feminist.org/news/afghan-women-face-economic-challenges-three-personal-stories-of-resilience-and-hardship-amidst-taliban-bans/.
[2] Ellingwood, "Afghan Women Face Economic Challenges—Three Personal Stories of Resilience and Hardship amidst Taliban Bans."
[3] AMNESTY INTERNATIONAL, "Afghanistan: UN Human Rights Council Must Address Taliban's Ongoing 'Relentless Abuses,'" *Amnesty International*, March 5, 2023,

applied several strategies, both internally and externally to limit and restrict women's rights in Afghanistan. In the internal level, the UN reports indicates that since seizing power, Taliban have issued over 470 directives, 79 of them are contributing to the infringement of women's and girls' fundamental human rights in society. [4] In December 2022, Taliban further rigid their systemic discrimination by restricting women from working in the society [5] except working in health and education sectors. In addition to removing half of the population from society, their discriminatory policies have further increased the vulnerability and fragility of women in every aspect of society, including economy. Considering the fact that in a developing country like Afghanistan, every person's contribution matters, still at the moment, 49.51% of total population [6] is denied of their very basic human rights including right to work.[7]

Following seizing power by Taliban, the economic, political, and democratic governmental institutions fell concurrently. Taliban's discriminatory policies towards women, have negatively impacted general living condition of Afghan inhabitants. In 2021, Based on United Nations reports 22.8 million Afghans had severe food insecurity. [8] The economic system's collapse led to a decline in job opportunities, as numerous foreign enterprises ceased operations and substantial

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https://www.amnesty.org/en/latest/news/2023/03/afghanistan-un-human-rights-council-must-address-talibans-ongoing-relentless-abuses/.

[4] Nazanin Mohseni, "UN: Taliban Have Issued at Least 470 Decrees since August 2021," *KabulNow*, December 30, 2025, https://kabulnow.com/2025/12/un-taliban-have-issued-at-least-470-decrees-since-august-2021/.

[5] United national Women, "FAQs: Afghan Women Three Years after the Taliban Takeover," UN Women – Headquarters, August 12, 2024, https://www.unwomen.org/en/articles/faqs/faqs-afghan-women-three-years-after-the-taliban-takeover.

[6] StatisticsTimes.com, "Afghanistan Demographics 2024," StatisticsTimes.Com, November 18, 2024, https://statisticstimes.com/demographics/country/afghanistan-demographics.php?utm.

[7] Pir Ali Kaya and Isin Ulas Ertugrul Yilmazer, "The Right to Work as a Fundemantal Human Right," *European Scientific Journal ESJ* 15, no. 14 (2019): 152, https://doi.org/10.19044/esj.2019.v15n14p151.

[8] Food and agriculture organization of the United state, "Half of Afghanistan's Population Face Acute Hunger as Humanitarian Needs Grow to Record Levels," Newsroom, October 25, 2021, https://www.fao.org/newsroom/detail/FAO-WFP-half-of-afghanistan-s-population-face-acute-hunger-251021/en.

international aid was retracted. Consequently, numerous individuals were rendered jobless and unemployed.[9] Furthermore, the poverty rate escalated; in 2022, the United Nations Development Program (UNDP) indicated that 97% of the Afghan populace had sunk below the poverty line. [10]

Additionally, Taliban dismissed Afghanistan 2004 Constitution, which conferred equal rights to men, women, and minorities, justifying that it was rooted in Western ideologies and ideals. They announced that they will implement Sharia law. [11] It's important to note that the collapse and downfall of Afghanistan's democratic government had a significant negative impact on its inhabitants, especially women and girls. Following its collapse and the ascendance of the Taliban, women and girls lost all their fundamental human rights. [12] Upon seizing power, Taliban imposed severe restriction and systematically started eradication of women from society. [13] As result of these imposed restrictions, Afghan women have been deprived of education, freedom of movement, work opportunities, and numerous other essential human rights. Additionally, The Taliban has forced women to wear "*Burqa*" women and girls who fail to comply are subject to

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[9] Khalid Ghani, "THE IMPACT OF TALIBAN RULE ON AFGHANISTAN'S ECONOMY," *International Journal of Pukhtunkhwa* 9 (2024): 333, https://pukhtunkhwajournal.org.

[10] Ghani, "THE IMPACT OF TALIBAN RULE ON AFGHANISTAN'S ECONOMY," 334.

[11] AuthorTaylor, Ansley Marie, "The Relationship Between Women's Education, Women's Employment, Gender Development, and Gender Inequality A Case Study of Afghanistan," (University of Oslo, 2022), https://scholar.google.com/scholar?as_vis=0&q=The+Relationship+Between++Women%E2%80%99s+Education,+Women%E2%80%99s++Employment,+Gender++Development,+and+Gender++Inequality++A+Case+Study+of+Afghanistan,+2000-2019&hl=en&as_sdt=2007.

[12] Adila, journalist, "Death in Slow Motion: Women and Girls Under Taliban Rule," *Amnesty International*, July 27, 2022, https://www.amnesty.org/en/latest/research/2022/07/women-and-girls-under-taliban-rule-afghanistan/.

[13] AMNESTY INTERNATIONAL, "Death in Slow Motion: Women and Girls Under Taliban Rule - Amnesty International," AMNESTY INTERNATIONAL, July 27, 2022, https://www.amnesty.org/en/latest/research/2022/07/women-and-girls-under-taliban-rule-afghanistan/.

detention, imprisonment [14]and they are prohibited to use public transport including taxis. [15] Taliban does not only limited the presence of the women in society but dismantled the institutions, organizations and departments which aimed to support and empower women. The clear Examples are the abolishment of *Ministry of Women affairs* and the *Independent Human Rights Commission*; during the previous regime both institutions were led by women and focused on protecting human rights and they used to advocate for women's rights and equality in the country.[16]

As result of denial of right to work for women, Taliban prohibited those women who used to work as civil servant in the *Islamic Republic of Afghanistan* governmental sectors across the country from rejoining their jobs. at the beginning women were asked to stay in their homes and don't come into work until the further notice, now it has been five years passed since they were banned from contributing into workforce. In most of the provinces, the female official governmental jobs were replaced by male members.[17] in December 2022, the banned was expanded, women were not only banned from working in official governmental jobs, but they were restricted from working in international and national non-governmental organizations (NGOs). Among the various occupations, Journalism was one of the major professions which was negatively impacted, based on United Nation, since Taliban returned to power 75% of female journalist lost their jobs. Meanwhile, according to the International Labor Organization, the employment rate in

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[14] Swipe Left, "Women in Afghanistan Have Not Stopped Striving for Their Rights, and Neither Should We," UN Women – Headquarters, August 12, 2024, https://www.unwomen.org/en/news-stories/feature-story/2024/08/women-in-afghanistan-have-not-stopped-striving-for-their-rights.

[15] Shoib Tanha Shokran and Shabnam von Hein, "Afghanistan: No More Taxis for Women without Burqas? – DW – 07/29/2023," Dw.Com, July 29, 2023, https://www.dw.com/en/taliban-headscarf-women-afghanistan/a-66380634.

[16] Resta Lember, "DEMOCRACY PROMOTION IN ISLAM MAJORITY COUNTRY: A CASE STUDY OF AFGHANISTAN" (TALLINN UNIVERSITY OF TECHNOLOGY, 2023), 49, TALLINN UNIVERSITY OF TECHNOLOGY School of Business and Governance.

[17] Zuhal Ahad, "Send Us a Man to Do Your Job so We Can Sack You, Taliban Tell Female Officials," Global Development, *The Guardian*, July 18, 2022, https://www.theguardian.com/global-development/2022/jul/18/send-us-a-man-to-do-your-job-so-we-can-sack-you-taliban-tell-female-officials.

Afghanistan fell around 25% during 2022. [18] It's important to highlight that, the denial of right to work lead millions of women to stay jobless and retuned back to their homes.

Banning women from working is one the most extreme discriminatory act which increased the vulnerability of women and created multiple challenges for them, such as economic hardship particularly for the widows who lost their male providers during fights with Taliban since 2001. As breadwinners of their entire family they are living in disparate situation, Based on Relief Web on 2020, Afghanistan has 2 million widows who does not have any male provider, and now their overall in particular economic situation is deteriorating day by day as they have lost their only source of income. [19] banning women from right to work has turned into one of the significant human rights violations which attracted the attentions and raised concerns of international community. In addition, this prohibition raised serious questions regarding Afghanistan compliance to its obligations under international human rights law and international labour standards.

Afghanistan as a party to almost all international human rights recognized the right to work and the principle of non-discriminatory acts. While restricting women's from right to work Rasis legal questions regarding the protection and enforcement of this fundamental right under international law. It's important to highlight that the legal researches focus on legal aspects of instruments, while, often the impacts of those certain legal provisions on the social aspects are overlooked. In order to fill the gap, the current thesis utilizing a legal socio research does not only examines the right to work of Afghan women and the role of *De facto authority* under International human rights law, it will also analyze the impacts of denial of

[18] Sebghatullah Qazi Zada and Mohd Ziaolhaq Qazi Zada, "The Taliban and Women's Human Rights in Afghanistan: The Way Forward," *The International Journal of Human Rights* 28, no. 10 (2024): 1700, https://doi.org/10.1080/13642987.2024.2369584.
[19] Rina Chandran, "After Four Decades of War, Afghan Widows Battle for Homes - Afghanistan | ReliefWeb," ReliefWeb, January 23, 2020, https://reliefweb.int/report/afghanistan/after-four-decades-war-afghan-widows-battle-homes.

right to work on Afghan women's daily life's through doing empirical research in the ground.

B. Problem formulation:

The current research document is going to answer Three important questions:

1. How does international human rights law protect Afghan women's right to work following the Taliban's return to power in 2021?
2. To what extent the Taliban, as a de facto authority is bound by international human rights obligations concerning Afghan women's right to work?
3. What are the legal, economic, and social impacts of the Taliban's restrictions on women's right to work in Afghanistan?

C. Objectives of research:

1. To analyze the human rights law provisions on fulfillment of women's right to work in Afghanistan
2. To Explore the human rights obligations of *De facto authority* under International human rights law.
3. To examine the particular impacts of violations of right to work on women's lives.

D. Benefits of research:

The current thesis examines current statues of fulfillment of women's right to work in Afghanistan under Taliban regime, as well as identify the impacts of these restrictions on Afghan women daily lives. In Addition to that, part of the current document will focus to find out the particular obligations of Taliban as *De facto authority* towards upholding human rights mainly right to work of women. The exploration of articulated issues offer two key benefits, including theorical and practical, which are explained in detail below:

1. **Theorical benefits:**

a. This research Documents the widespread violations of women's rights by the Taliban in Afghanistan mainly after August 2021.

b. It enriches the body of knowledge available for future legal research, through providing a resource for citation, By focusing on the right to work for women, De facto's responsibilities towards human rights

c. This thesis examines the broader consequences of political change on gender inequality in Afghanistan.

d. It examines the negative impacts of authoritarian regimes on the protection of citizens' human rights in particular right to work of women.

e. The current research explores certain provisions of International human rights laws, treaties, and conventions that have been violated by Taliban regime.

2. **Practical benefits:**

a. The current thesis aimed to raise awareness among international communities regarding the negative impacts of violation of right to employment of Afghan women.

b. Findings of this thesis hopefully Supports the International and national Non-Governmental Organizations (INGoS) to draw evidence based humanitarian programs based on needs of Afghan women in the ground.

c. The current thesis will be used as advocacy tools for protecting women's rights in particular right to work at international level.

d. For the author, completing this thesis fulfills one of the academic requirements for obtaining a master's degree.

E. Originality of the research:

Although some Researches has been already conducted in this filed. However, in order to build on work done by other authors and to avoid repetition, the author selected some relevant documents and compared them into four parts: title, problem formulation, similarities, and differences in the below.

Qazi Zada Sebghatullah, Qazi Zada Mohd Ziaolhaq (2024), paper titled *The Taliban and women's human rights in Afghanistan: the way forward* aimed to answer this question by examining (a) the Taliban origin and the factors that led to their rise in the 1990s and resurgence in 2021 and (b) the human rights obligations of including CEDAW, they analyzed how the Taliban's policies and practices are in contradiction with Afghanistan's international human rights law obligations. This article demonstrated that the current Talian regime is similar to their previous regime in 1990s. The authors demonstrated that banning women from their very basic rights are clearly contradicting the human rights in particular women's right. [20]

Arib Yelda (2020) in her research paper called *Identification and Analysis of Barriers to Employment for Educated Women in Afghanistan*, explored the challenges towards the employment of educated women in Afghanistan. This research was done before Taliban came in to power. In her document she identified certain barriers towards women employment under democratic regime of Afghanistan. as part of her research 437 questioners were filled out in Kabul, Herat, Balkh, and Kandahar provinces. The findings showed that variables such as family income, age, education, inappropriate government policies, lack of security in Afghan society, personal social factors, general culture, mentality, and personality are among the factors that negatively impacted the employment of educated women in Afghanistan.[21]

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[20] Qazi Zada and Qazi Zada, "The Taliban and Women's Human Rights in Afghanistan," 2024.

[21] Yelda Arib, "Identification and Analysis of Barriers to Employment for Educated Women in Afghanistan," *By Science and Education Publishing*, Journal of Finance and Economics, Vol. 8, No. 4, 171-182, no. 4 (2020): 171–82, https://doi.org/10.12691/jfe-8-4-3.

zakia adeli (2024) in her article called *The Consequences of Taliban Policies on Human Rights in Afghanistan (August 2021–August 2023)* has analyzed the repercussions of the Taliban's policies on citizen rights, which are divided into two distinct categories: civil and political rights and economic, social, and cultural rights. The findings show that since the Taliban's takeover, Afghanistan's legal foundations have been completely dismantled this is mainly because various institutions such as *parliament*, the *Constitution*, the *Independent Human Rights Commission*, the Independent *Constitutional Monitoring Commission*, the *Independent Election Commission*, and the *Ministry of Women's Affairs* were part of those changes. The Taliban rejected human rights concept and are hostile to notions of democracy based on elections. upon seizing power, they are violating international human rights law through applying unjust and discriminatory policies in particular towards women's right.[22]

Taylor, Ansley Marie (2022) in her research paper called *The Relationship Between Women's Education, Women's Employment, Gender Development, and Gender Inequality | A Case Study of Afghanistan, 2000-2019* analyzed the link between promoting women's rights—specifically in areas like education and employment—and the advancement of gender equality and gender development. These elements ultimately lead to the overall improvement of society. Additionally, the study explores a multidisciplinary approach that demonstrates how achieving gender equality in the education and employment sectors benefits society as a whole. This paper concludes that widespread of women's right violation has happened since Taliban came into power, they have implemented gender-discriminatory policies. [23]

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[22] ZAKIA ADELI, "The Consequences of Taliban Policies on Human Rights in Afghanistan," *East–West Center (United States)* Vol. 27, No. 162, nos. 1522–0966 (2024): 1–10, https://reliefweb.int/attachments/1b401f55-af96-45b4-b6f1-f4a53fcf5361/Human%20rights%20in%20Afghanistan%20API%20No.%20162%20Draft%2001.pdf.

[23] AuthorTaylor, Ansley Marie, "The Relationship Between Women's Education, Women's Employment, Gender Development, and Gender Inequality A Case Study of Afghanistan,."

Pir Ali Kaya, Isin Ulas Ertugrul Yilmazer (2019) in their paper titled *The Right to Work as a Fundamental Human Right* indicated that right to work is a fundamental human right ensuring that every individual shall be able to continue their lives with a desired job and an income allowing the protection of human dignity. The right to work is directly related with the right to live of the working class that tries to live on their labor. Therefore, the right to work is the quest for a right based on life under a social order allowing every individual to have a job and income for continuing their lives in addition to protecting their dignity while allowing personal development and individual freedom. [24]

Adila Haidari (2024), in her paper titled *Gendered Labor Rights Under Taliban Rule: Addressing Employment Inequality in Post-2021 Afghanistan* highlights the problems which Afghan women's are facing in the labor market due to segregation banns imposed by Taliban. She adds that there is an urgent need of a policy which grants the human rights of women including right to employment of women in Afghanistan. additionally, she provides some of the recommendation for solving this problem, right to work for must be a red line and non-negotiable for the international communities. Advocating for women's right to employment by international communities. Providing learning opportunities for Afghan women and girls through scholarships. [25]

M. Zarif Mohammadinia (2021) in his thesis paper titled *female labour force participation in Afghanistan: changes, economic activities and determinants* indicates that human rights condition of Afghan women was dire during the 1st Taliban regime while, later during the democratic government it progressed. However, still the labor participation was not widespread as it only focused on

[24] Pir Ali Kaya and Isin Ulas Ertugrul Yilmazer, "The Right to Work as a Fundemantal Human Right," *European Scientific Journal ESJ* 15, no. 14 (2019), https://doi.org/10.19044/esj.2019.v15n14p151.
[25] Adila, journalist, "Death in Slow Motion."

agriculture sector, based on data during 2015, 70% of women are working in this sector in Afghanistan. [26]

Felicity Nneoma Ike (2025) in his article titled *Closing gender equality gaps in Taliban-ruled Afghanistan* highlights that gender segregated policies of Taliban negatively impacted women in different aspects including well-being and health. He also highlights that the social determinants of health such as education, work, and social engagement have suffered substantial declines. Limitations on education and employment have diminished women's economic autonomy, heightening their vulnerability to adverse health outcomes. Gender-based violence, encompassing domestic abuse and forced marriages, occurs extensively and is predominantly unjustified because of insufficient legal safeguards and cultural stigma.[27]

Sadaqat and Qasem Ali (2024) in their paper titled, *the right to job security and labor law in Afghanistan* examines the definition of job security in Afghanistan, critiques the insufficiency of current legal remedies, and identifies the necessary structural reforms to uphold this essential labor right. Furthermore, the paper underscores that genuine job security cannot be attained solely by legal reforms, but necessitates more profound transformations, including: Transformation of culture and ideology, Enhancement of economic circumstances, Political stability and strengthening scientific and intellectual foundations. [28]

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[26] M Zarif Mohammadinia, "FEMALE LABOUR FORCE PARTICIPATION IN AFGHANISTAN: CHANGES, ECONOMIC ACTIVITIES AND DETERMINANTS" (Unpublished, 2021), https://rgdoi.net/10.13140/RG.2.2.18193.40802.

[27] Felicity Nneoma Ike et al., "Closing Gender Equality Gaps in Taliban-Ruled Afghanistan," *Discover Public Health* 22, no. 1 (2025): 240, https://doi.org/10.1186/s12982-025-00636-0.

[28] Qasem Ali Sadaqat, "The right to job security and labor law in Afghanistan," *Scientific-Research Quarterly Journal of Law Knowledge* 1, no. 2 (2024): 2–23, https://doi.org/10.62134/srqjl/v1.i2.202403.1.

No	Title	Problem formulation	Similarities	Difference
1	Qazi Zada Sebghatullah, Qazi Zada Mohd Ziaolhaq (2024): The Taliban and women's human rights in Afghanistan: the way forward	The central question of this article is, what will happen to the human rights of Afghan women and girls now that the Taliban are back in power?	This document covers the general violation of human rights during the Taliban regime in Afghanistan.	The current thesis aims to analyze the violation of right to work of women under international law as well as to identify the multidimensional impacts violation of right to employment on Afghan women's daily lives. In Addition, the current document will examine the obligation of *De facto authority* under International human rights law.
2	Arib Yelda (2020): Identification and Analysis of Barriers to Employment for Educated Women in Afghanistan	What are the factors involved in the higher share of men's participation in different jobs, compared to women? and why some women do not work despite their interest in working outside the home. What are the	This document focuses on challenges which cause the women to be deprived of their right to work mainly before Taliban regime.	In contrast to this article, the current thesis will examine the impacts of violation of women's right to work during Taliban regime. In addition to analyzing the right to work under International law, the particular responsibility of Taliban towards international

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		barriers to their working outside the home?		human rights law will be examined.
3	zakia Adeli (2024): The Consequences of Taliban Policies on Human Rights in Afghanistan (August 2021–August 2023)	how do the Taliban's policies affect the rights of citizens in Afghanistan?	This article talks about the general violation of human rights in Afghanistan under Taliban regime.	In contrast to this article, the current thesis will examine the impacts of violation of women's right to work during Taliban regime. In addition to analyzing the right to work under International law, the particular responsibility of Taliban towards international human rights law will be examined.
4	Taylor, Ansley Marie (2022): The Relationship Between Women's Education, Women's Employment, Gender Development, and Gender Inequality | A Case Study of	1. What is the relationship between women's right to education, gender equality, and gender development in Afghanistan? 2. What is the relationship between women's right to employment, gender equality, and gender development in Afghanistan? • Based on the study's findings, what	The violation of human rights in particular women's right has been examined in this document.	In contrast, the current thesis will only examine right to work of women under international law and will articulate the impacts of violation of women's right to work under Taliban regime. In addition, the particular responsibility of Taliban towards international human rights law will be examined.

	Afghanistan, 2000-2019	recommendations can be made to improve gender equality and gender development in Afghanistan?		
5	Prof. Dr. Pir Ali Kaya, Dr. Isin Ulas Ertugrul Yilmazer (2019)The Right to Work as a Fundamental Human Right	In general, the study methodologically focused on rethinking right to work from the historical, theoretical and analytical spheres of scientific research.	Right of work is a fundamental right for all human being for both men and women.	In contrast, the current research will not only examine right to work of women under international law and will articulate the impacts of violation of women's right to work under International law by Taliban regime. In addition, the particular responsibility of Taliban towards international human rights law will be examined.
6	Adila Haidari(2024), Gendered Labor Rights Under Taliban Rule: Addressing Employment	This study mainly focuses on the "intersection of gender and labor rights after regime change, analyzing the growing barriers to women's employment, which not only undermines gender	This paper highlights that, right to work of women has been violated under the Taliban regime, furthermore there is lack of relevant policy concerning women's including right to work. Additionally, it focuses on significant of right	The current research, examines the impact of gender discriminatory policies of Taliban towards women right to work through collecting primary data from affected women. Meanwhile, the

	Inequality in Post-2021 Afghanistan	equality but also threatens the broader socioeconomic stability of Afghanistan".	to work of women in personal economic condition of Afghan women and consequently, in a broad country level.	discriminatory acts of Taliban towards women's right to work and their responsibility as *De facto authority* will be examined under international human rights law.
7	M. Zarif Mohammadin ia (2021), female labour force participation in afghanistan: changes, economic activities and determinants	The main questions of this paper is to: (1) find out the changes that female labor force participation (FLFP) has seen in Afghanistan in the post-Taliban era, (2) to learn about the type of economic activities that the Afghan women engage in and (3) to understand the determiners of FLFP in country.	The importance of female participation in labor force in development of Afghanistan.	In contrast the current thesis only analysis right to work of women under international human rights law instruments as well as the impacts of violation of right to work on Afghan women's daily lives.
8	Felicity Nneoma Ike (2025) Closing gender equality gaps in Taliban-ruled Afghanistan	To identify and analyze the gender equality gaps affecting women and girls in Afghanistan following the Taliban's return to power in August 2021, and to determine how the Taliban's discriminatory policies hinder progress	This article highlights the gender equality gaps affecting women and girls in Afghanistan since the reemergence of the Taliban regime in 2021. And propose practical strategies for addressing these widening gaps amid severe restrictions on women's rights.	The current thesis is more specific and only examines the right to work under international human rights law. It examines the impacts of these limitations on personal life of the Afghan women. In addition, the current

		toward Sustainable Development Goal 5 (Gender Equality).		document analysis the responsibility of *De facto authority* under international law.
9	Sadaqat and Qasem Ali (2024) The right to job security and labor law in Afghanistan	How is the right to job security guaranteed in Afghan law and labor legislation? What are the foundations and sources of the right to job security? What legal mechanisms ensure job security under the Labor Law? What are the shortcomings of these mechanisms, and how can they be addressed?	The study examines the definition of job security in Afghanistan, critiques the insufficiency of current legal remedies, and identifies the necessary structural reforms to uphold this essential labor right. Furthermore, the paper underscores that genuine job security cannot be attained solely by legal reforms, but necessitates more profound transformations, including: - Transformation of culture and ideology - Enhancement of economic circumstances - Political stability - strengthening scientific and intellectual foundations	The current thesis Mainly focus on right to work for women and obligations of *De facto authority* under international human rights law. Additionally, it further examines the impacts of violation of right to work on Afghan women's daily lives.

F. Literature review:

This study is founded on the basis of international human rights concept and the particular egal principles governing the protection of the right to work, in particular women's right to employment under international law. It draws upon the theories of natural law, the universality of human rights, and the legitimacy of governmental authority in order to explore the legality of restrictions imposed by Taliban on Afghan women's right to employment since August 2021. These theoretical perspectives provide the conceptual foundation for assessing whether the policies adopted by the Taliban comply with Afghanistan's international human rights obligations and more importantly the particular responsibilities of *De facto authority* under international law.

The theory of natural law recognizes that all human beings possess inherent and inalienable rights by virtue of their humanity. It's important to mention that, these rights are not granted by governments but they just exist independently of political authority. Modern international human rights law is largely founded upon this principle, which is reflected in the very important documents such as UDHR and international human rights treaties. according aforementioned documents, the right to work is recognized as a fundamental human right which cannot be arbitrarily denied on the basis of any issues such as gender, ethnicity, religion, or political affiliation.

The study further relies on the concept of the universality and indivisibility of human rights, which articulates that all human rights are equally important, interdependent, and applicable to every individual without any kind of discrimination. Its worthed to mention that he right to work is closely connected with numerous other fundamental rights, such as rights to equality, dignity, health, and an adequate standard of living. Consequently, restrictions on women's employment extend beyond economic deprivation and directly impact the exercise of a broad range of civil, political, economic, social, and cultural rights in the community.

In addition, in order assess the obligations of the Taliban as the de facto authority in Afghanistan, the current research adopts the legitimacy theory of governmental authority. Although the Taliban has not received widespread international official recognition as the legitimate government of Afghanistan, still it exercises effective territorial control and operates as governmental functions. Under international law, entities exercising effective control over a territory are expected to respect, protect, and fulfil fundamental human rights. This framework is particularly relevant in evaluating the responsibilities of *De facto authority* toward populations under their control. Contemporary international legal scholarship increasingly recognizes that *De facto authority* exercising governmental authority bear obligations to respect internationally recognized human rights, especially where their actions directly affect civilians.

The right to work is one of the core socioeconomic rights Well-recognized under international human rights law. Kaya and Yilmazer articulates that the right to work is fundamental right this is mainly because it enables individuals not to only secure an income, maintain an adequate standard of living, but it will enable them to exercise other human rights. This is important to mention that the denial of employment extends beyond economic hardship, as it directly affecting personal dignity, social participation, and individual autonomy. This perspective supports the present study's examination of the broader implications of employment restrictions imposed on Afghan women. Furthermore, Several other scholars have explored the deterioration of women's rights after the Taliban's return to power. For Instance, Qazi Zada Sebghatullah and Qazi Zada Mohd, Ziaolhaq articulated that the Taliban's imposed restrictions on women's employment and education are an explicit violations of Afghanistan's obligations under international human rights treaties, particularly the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the International Covenant on Civil and Political Rights (ICCPR). Similarly, Zakia Adeli mentioned that by abolishing the 2004 Constitution and dissolving independent institutions responsible for constitutional oversight, elections, and the protection of women's rights, the Taliban completely dismantled constitutional and institutional human rights framework in

Afghanistan. She further highlights that there is a need of international accountability mechanisms in order to address these systematic human rights violations. [29]

Likewise, Taylor Ansley Marie argued that the banning women from accessing education and employment has a Substantial impact on Afghanistan's peace, economic development, and social stability in the longer term. Based on her arguments, protecting women's equal participation in education and the labour market is not only a human right obligation but it is also an Fundamental requirement for sustainable development and establishing national prosperity.
The aforementioned scholarly contributions explicitly indicates that the Taliban's policies have resulted in widespread violations of women's fundamental rights including right to work. However, it's important to mention that the existing literature has primarily focused on documenting these violations from legal and policy perspectives and limited attention has been given into examination of multidimensional consequences of the prohibition on women's employment, particularly its psychological, social, and economic impacts on women who previously worked in the public sector. Furthermore, relatively little research has explored the legal obligations of armed non-state actors concerning the protection of the right to work under international human rights law.

Accordingly, this study applies the above theoretical framework to evaluate the legality of the restrictions imposed on Afghan women's right to work under international human rights law, including the Universal Declaration of Human Rights (UDHR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and relevant International Labour Organization (ILO) conventions. Grounded in these theoretical and legal foundation, the current thesis further explores the impacts of employment banns on three dimensions such as psychological, economic, and social through empirical

[29] ZAKIA ADELI, “The Consequences of Taliban Policies on Human Rights in Afghanistan.”

evidence collected from women formerly employed in the public sector in the provinces of Herat, Ghor, and Badghis. By integrating legal analysis with empirical findings, the study seeks to contribute to the existing literature by providing a comprehensive assessment of both the legal obligations of *De facto authority* and the lived experiences of Afghan women deprived of their right to work. Additionally, based on the respondents' views, this research provides several recommendations.

G. Definition of term:

- **Human rights:** Human rights are the fundamental rights inherited just because we are human beings. These are Universal rights which everyone, regardless of their sex, skin color, religion, ethnicity, language, country, position, or any other difference possesses it. and no one including the states are allowed to violet them. [30]

- **Right to work:** Based on article 23 and 24 of the Universal declaration of human rights(UDHR) 1948, ever human has the right to work without any discrimination.[31] Additionally, Pir Ali KAYA and Isin Ulas Ertugrul-Yilmazer, articulated that the right to work is a fundamental right of every human being and it is equivalent to the right to live. To live in a dignified manner, humankind who wants to work needs to have access to an income in order to cover the costs and expenses of their lives.[32]

- **Human rights Violation:** According to the United Nations, "a human rights violation occurs when actions by state or non-state actors abuse, ignore, or

[30] United nation, Human rights , office of the high commissioner, "What Are Human Rights?," United Nation, September 2014, https://www.ohchr.org/en/what-are-human-rights.
[31] United Nations, *Universal Declaration of Human Rights*, illustrations by Yacine Ait Kaci (YAK) (New York: United Nations, 2015), in partnership with the United Nations Regional Information Centre (UNRIC) and the Office of the United Nations High Commissioner for Human Rights – Regional Office for Europe (OHCHR). All rights reserved worldwide. https://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf
[32] Kaya and Yilmazer, "The Right to Work as a Fundemantal Human Right," 2019, 1. Accessed Jun 16,2025

deny basic human rights laid out under Universal Declaration of Human Rights (UDHR)1948, This includes civil, political, cultural, social, and economic rights". [33]

H. Theorical Framework:

Under natural law theory, it's important to mention that certain moral principles and standards are understood to exist independently of human-made laws and political institutions. These principles are not created by governments or legislatures; rather, they are being regarded as inherent in human nature and discoverable through human reason. Natural law therefore provides a moral standard against which human conduct and positive law can be assessed. Acts such as respecting human dignity and pursuing justice are generally regarded as natural rights of human being, whereas acts such as the unjust killing of innocent persons are regarded as inherently wrong.[34] An important premise of natural law theory is that certain rights and moral principles existed prior to the establishment of government and positive legal systems. This idea is commonly associated with the concept of the "State of nature," in which human beings are understood to possess certain rights and freedoms before entering into an organized political society. It's worth noting that under this theory, natural rights do not take their legitimacy from the state, rather, they are considered universal, belonging to all human beings just by virtue of their humanity. This proposition provides an important philosophical foundation for the modern understanding of human rights. Under this theory human

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[33] Palestine Children's Relief Fund (PCRF), *Human Rights Violations in Conflict Zones: What Can Be Done?*, accessed May 27, 2025, https://www.pcrf.net/information-you-should-know/item-1718652928.html.

[34] Politechnika Śląska,Wydział Organizacji i Zarządzania, Katedra Stosowanych Nauk Społecznych and Zbigniew Orbik, "Human Rights in the Light of the Concepts of Natural Law," *Scientific Papers of Silesian University of Technology. Organization and Management Series* (Poland) 9, no. 6 (2019): 280, https://doi.org/10.29119/1641-3466.2019.140.22.

rights that are inherent, universal, and not dependent upon governmental recognition and government is there merely to protect these rights. [35]

The intellectual foundations of natural law can be traced to the writings of Socrates, Plato, and Aristotle in ancient Greece, whose philosophical works contributed to the development of the idea that justice and morality are not exclusively products of human legislation. The theory was subsequently developed by other philosophers such as John Locke, who employed natural law principles to articulate an important conception known as inherent individual rights. Locke articulated that every individual possesses fundamental rights including right to life, liberty, and property just by virtue of being human. [36] These rights are not gifts given by the state or government; rather, the primary function of government is to recognize, protect, and preserve these rights. This conception became particularly significant in subsequent development of modern human rights concept. [37]

For John Locke, the capacity for reasoning is central to understanding of natural law. In this context, reason does not refer merely to education, intelligence, or intellectual achievement. Instead, it refers to the human capacity to distinguish between right and wrong and to recognize fundamental moral principles. Through reason, individuals will be able to understand that the moral value they attribute to their own lives must also be extended to the lives of others. For example, if an individual recognizes that his or her own life deserves protection, the same reasoning requires recognition of the equal value of another person's life. In this sense, reason enables human beings to recognize that all persons possess inherent

[35] Politechnika Śląska,Wydział Organizacji i Zarządzania, Katedra Stosowanych Nauk Społecznych and Orbik, "Human Rights in the Light of the Concepts of Natural Law," 280.
[36] Politechnika Śląska,Wydział Organizacji i Zarządzania, Katedra Stosowanych Nauk Społecznych and Orbik, "Human Rights in the Light of the Concepts of Natural Law," 280.
[37] Politechnika Śląska,Wydział Organizacji i Zarządzania, Katedra Stosowanych Nauk Społecznych and Orbik, "Human Rights in the Light of the Concepts of Natural Law," 280.

moral worth and are entitled to moral respect. [38] Locke further maintained that human beings possess an equal capacity for reason and, consequently, possess equal moral status. Thus, differences in social position, wealth, political authority, or occupation do not establish differences in fundamental human worth. A king and a farmer, for example, possess the same basic moral status because both are human beings endowed with reason. This conception of human equality and inherent dignity is particularly significant to the development of modern human rights. The idea that rights belong equally to all persons, regardless of their social or political status, constitutes one of the fundamental philosophical foundations upon which contemporary human rights discourse has been developed.[39]

Based on John lock, human being possesses certain rights because they have the reasoning ability, the "reason" wording in this context does not mean education, intelligence or being good in something else. This concept means having the capacity to think about right and wrong as well as to discover moral truths, just the way that our eyes are functioning. For example, human eyes enable us to see things and "reason" allows us to see the moral principles. [40] Let's make it clear by giving a practical example, imagine if an individual value his life, he must recognize to respect others life as well. This simple example, shows that reason, enable human being to understand that all mankind deserves moral respect. [41] According to John Lock, as all human possess the same reasoning ability. Thus, they deserve respect and freedom. therefore, there is no any difference between them. According to this idea both a farmer and a king are the same because, they share the same rationality and equal moral worth. [42] It's worthed to mention that the concept of human rights

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[38] John Locke, "Locke, Second Treatise, 1690," accessed August 13, 2026, https://history.hanover.edu/courses/excerpts/163locke.html?utm.
[39] Steven J. Heyman, *THE LIGHT OF NATURE: JOHN LOCKE, NATURAL RIGHTS, AND THE ORIGINS OF AMERICAN RELIGIOUS LIBERTY*, (United States of America) 101, no. 3 (2018): 735.
[40] Heyman, *THE LIGHT OF NATURE: JOHN LOCKE, NATURAL RIGHTS, AND THE ORIGINS OF AMERICAN RELIGIOUS LIBERTY*, 729.
[41] Heyman, *THE LIGHT OF NATURE: JOHN LOCKE, NATURAL RIGHTS, AND THE ORIGINS OF AMERICAN RELIGIOUS LIBERTY*, 719.
[42] Heyman, *THE LIGHT OF NATURE: JOHN LOCKE, NATURAL RIGHTS, AND THE ORIGINS OF AMERICAN RELIGIOUS LIBERTY*, 730.

which believe that human are equal has been built based on concept of natural law theory.

According to Human rights theory and principles, all human being are entitles of certain rights only by virtue of their humanity, irrespective of distinctions such as race, gender, political ideology, social rank, religion, or skin color, and are conferred upon each person at the time of birth. Human rights concept has three core elements including universality, inalienability and indivisibility. The universality of human rights indicates that human Rights are entitled to all individuals regardless their differences or where they live without any discrimination.[43] Inalienability indicates that no individual, groups or institution are allowed to act against these rights, ignore or violates them. meanwhile, it highlights that these rights cannot be relinquished or transferred, nor can they be denied; they must be upheld. [44] last but not least, indivisibility articulates that all civil, political, economic, social, and cultural rights are all not only equally important but they are interconnected to each other, this indicates that one right can affect another.

As article 2nd of the UDHR states that "Everyone is entitled to all the rights and freedoms articulated in this Declaration, without distinction of any kind, including race, color, sex, language, religion, political or other opinions, national or social origin, property, birth, or other status."[45] This article prohibits all kind of discrimination between men and women in terms of their rights and consider them all as human being possessing equal rights. it's important to mention that under international labor organization (ILO), right to work has been recognized as fundamental human right interconnected with numerous other rights. It is crucial

[43] Frederic Megret, *The_Nature_of_International_Human_Rights* (Oxford University Press, 2009), 4,5,6, https://doi.org/https://ssrn.com/abstract=1472196 or http://dx.doi.org/10.2139/ssrn.1472196.
[44] Jack Donnelly, *Universal Human Rights in Theory and Practice* (Cornell University Press, 2013).
[45] Donnelly, *Universal Human Rights in Theory and Practice*, 10.

that all individuals, especially women, exercise their right to work free from discrimination. [46]

Based on the international law right to work is a fundamental human right which does not belong to a particular area of a society or to a specific person, instead it belongs to everyone everywhere. The right to work is more than a fundamental human right as it is interlinked with other human rights, including right to dignity and right to life. [47] employment opportunities enable individuals to generate income, fulfill their fundamental necessities, and maintain a dignified life. According to the Committee Comment Number 18 about the interpretation of Article 6th of the International convention on economic social and cultural right (ICESCR) 1966, when it comes to right to work there are four indicators that must be fulfilled: a) availability; b) accessibility; and c) acceptability and quality. [48] According to these principles, the state should not only provide employment opportunities for its inhabitants but also it supposed to assist them obtain their desired jobs.

Moreover, Employment opportunities should be equitably accessible to all individuals, irrespective of Gender, ethnicity, religion, or any other characteristic. This approach categorizes accessibility into two components: 1) Physical accessibility which entails that employment possibilities must be inclusive, ensuring access for all individuals, including those with impairments. 2) Accessibility regarding information implies that all relevant employment-related information must be accessible to all individuals without discrimination. The third and fourth pillars encompass Acceptability and Quality. These indicators emphasize

[46] ZAKIA ADELI, "The Consequences of Taliban Policies on Human Rights in Afghanistan," 162.
[47] Kaya and Yilmazer, "The Right to Work as a Fundemantal Human Right," 2019, 151.
[48] COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, "General Comment No. 18 on the Right to Work," COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, November 7, 2005, 5, https://digitallibrary.un.org/record/556125?v=pdf.

that employment must be safe, just, and dignified. This implies that employees must have access to justice, including equitable compensation, while engaged in labor.[49]

The Author argue that, Taliban have explicitly committed human rights violations by unlawfully restricting women's from right to work. some parts of the current research echoes the findings of Abhitah and Adila Haidari which asserted that Taliban regime has perpetrated extensive violations of women's rights, encompassing employment, and freedom of movement. Based on author significant accomplishments of women over the two decades of democratic governance in Afghanistan was abolished by coming Taliban back to power and the condition of women's rights remained dire. [50]

The third important theory is called "legitimacy" this concept merely assesses whether a government Is lawful authority to represent a state in the international legal order or not. According to this theory, the legitimacy of a government comes through legal mean (constitutional), democratic governance, and the rule of law, [51] other than this, any other type of government which does not fulfill this concept is illegitimate. Under this theory, a legitimate government is one that acquires and exercises power in accordance with the constitution. For instance, where a constitution requires political leaders to be elected, only a government established through constitutionally valid elections can be regarded as legitimate. This approach discourages the recognition of governments that seize power through unconstitutional means. The second important aspect is of theory is "international recognition" by other states, this is mainly because it reinforces a government's legitimacy, although such recognition is often influenced by political considerations

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[49] COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, "General Comment No. 18 on the Right to Work."

[50] Abhitah Hayu Bhanuwati, "From Power to Oppression: Threats to the Security of Afghan Women in the New Era of the Taliban Regime," *Proceedings of Sunan Ampel International Conference of Political and Social Sciences* 2 (December 2024): 200, https://doi.org/10.15642/saicopss.2024.2..192-205.

[51] Federica Paddeu Pavlopoulos Niko, "Between Legitimacy and Control: The Taliban's Pursuit of Governmental Status," *Just Security*, September 7, 2021, https://www.justsecurity.org/78051/between-legitimacy-and-control-the-talibans-pursuit-of-governmental-status/.

rather than legal principles. [52] Nevertheless, It focusses on the Government international recognition and lawfulness rather than focusing solely on an effective control over territory.

I. Research method:

The Frascati Manual 2015 defines research as a systematic approach to inquiry aimed at acquiring information about a specific subject. [53] The author will employe a socio legal research methodologies in writing this thesis. A doctrinal study of international legal principles will be employed to assess the limitation of Afghan women's freedom to work and the responsibilities of *De facto authority* towards human rights. It furthermore, a rigorous empirical method will be utilized in order to ascertain the effects of these restrictions on women's daily life; this will include conducting an online survey with the affected women, concentrating on three primary dimensions: such as psychological, economic, and social dimensions.

1.Type of research:

In writing this thesis, the author used a mixed of legal and empirical research methods, the normative type will focus on international legal rules, regulations, and principles related to right to work as well as the responsibilities of *De facto authority* towards human rights, this method is carried out by researching library-based materials or secondary data. While, In the empirical part, a survey will be conducted with a number of Afghan women who lost their jobs after Taliban seized power in August 2021, the main aim of this part is to identify the impacts deprivation of right to work in Afghan women's personal lives; therefore, this part will be filled using the primary materials directly collected from the ground.

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[52] Jean D'Aspremont, "LEGITIMACY OF GOVERNMENTS IN THE AGE OF DEMOCRACY," *New York University Journal of International Law and Politics (JILP)* 38 (2006): 833.

[53] OECD, *Frascati Manual 2015: Guidelines for Collecting and Reporting Data on Research and Experimental Development, The Measurement of Scientific, Technological and Innovation Activities* (Paris: OECD Publishing, 2015), http://dx.doi.org/10.1787/9789264239012-en accessed Jun 11 ,2025

2.Focus of the research

Under the light of International human rights law provisions, the current research is going to examine current statues of fulfillment of women's right to work under Taliban regime in Afghanistan. In addition to examine the responsibilities of *De facto authority* towards international human rights. More importantly, part of this research will focus to analyze the impact of this segregation act on Afghan women's daily life, from multidimensional including psychological, social and economical.

3.Research approach:

The current research paper employs both a statutory and a conceptual approach. The statutory approach is used to examine the legal framework governing women's right to work under international law, including relevant international treaties, conventions, and other applicable legal instruments. Meanwhile, It also analyzes the legal norms which are related to the obligations and responsibilities of *De facto authority* under international law. Additionally, the conceptual approach is applied to assess the legal concepts and doctrines relevant to the focus of this paper, in particular the concepts of the right to work, government recognition, legitimacy, and the international legal responsibility of *De facto authority*. This approach facilitates a critical analysis of scholarly opinions, legal principles, and theoretical frameworks in order to interpret the applicable law as well as to assess the extent to which *De facto authority* may bear responsibilities in relation to the protection and fulfillment of women's right to work in territories under their control.

4. Sources of Data:

A mix of Normative and empirical legal research approaches have been used in this thesis. In writing the normative Part, some primary legal materials will be examined including Statutes, legal codes, laws, declarations, covenants, United nations comments and conventions. For the empirical approach part, again primary materials will utilized, in order to do so a survey will be conducted with impacted women who have lost their jobs as a result of imposed bans on right to work on women by Taliban. In this particular part, the survey questions will be mainly

focusing on social, economic, and psychological challenges which women are facing. Due to security issues and considering the safety and security protocols, data will be collected virtually and in an anonymous way. In addition, the link of the survey questions designed through KOBO application will be shared with the targeted respondents. Consequently, the questions will be designed using Likert scale approach (agree, disagree, strongly agree, strongly disagree, neither agree nor disagree) so that participants can answer the questions through selecting their responses simply without any confusion. It's important to highlight that considering the ethical principles, the consent of the participants will be taken before asking them to share their opinions, meanwhile, they can stop and leave the survey at anytime that they want.

Primary:

A virtual survey will be conducted among women affected by the employment restrictions imposed by the Taliban authorities. The survey aims to examine the impact of these restrictions on three key dimensions of women's daily lives: including economic, social, and psychological well-being. The findings will provide primary empirical evidence to complement the legal analysis and facilitate a more comprehensive assessment of the practical consequences of the Taliban's policies on women's rights.

Secondary legal materials:

Under the secondary legal materials, the author utilized three types of Resources, as outlined below:

a. Primary legal materials:

For examining the right to employment of Afghan women under International human rights law, the author will use the primary legal materials in this thesis; these sources consist of international laws such as Universal declaration of human rights(UDHR)1948[54], International Covenant of Economic, Social and Cultural

[54] United Nations, *Universal Declaration of Human Rights*

Rights (ICESCR)1966[55], Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)[56] and the International Labor Organization (ILO) in particular Policy Convention, 1964 (No. 122) on employment and the realization of the right to work and Convention, 1958 (No. 111) which Prohibits gender discrimination in employment.[57] Meanwhile, the Limburg principles on the Implementation of the *ICESCR* also general comment of *ICESCR* which are related to right to work will be analyzed.

b. Secondary legal materials:

In order to examine the thesis topic comprehensively and effectively, secondary materials such as legal textbooks, legal and relevant articles, authoritative and reliable reports from both national and international sources such as United nations organizations will be utilized accordingly.

c. Tertiary legal materials:

Legal dictionaries and legal encyclopedias are part of the legal tertiary materials will be used in writing this thesis. The highlighted materials aim to provide correct and concise definitions of the legal terms used in this thesis, explain the thesis topic comprehensively, and compile, summarize, and organize the primary and secondary legal materials.

5. Data collection techniques:

a) **Library based research techniques:** This study adopts a library research approach as the primary data collection technique within a doctrinal legal research methodology. The research relies on the systematic collection and analysis of primary and secondary legal materials. Primary legal materials include relevant international legal instruments, statutes, treaties, conventions, covenants that protect the right to work under international

[55] *International Covenant on Economic, Social and Cultural Rights*
[56] *The Convention on the Elimination of All Forms of Discrimination against Women and Its Optional Protocol*
[57] *Freedom of Association and Protection of the Right to Organise Convention*

human rights law. Secondary legal materials consist of legal textbooks, peer-reviewed journal articles, commentaries, reports, and other scholarly publications obtained through both online and offline sources.

The collected legal materials will be critically analyzed to examine the legal framework governing women's right to work and to identify the existing legal gap between the international recognition of this fundamental right and its implementation in practice. Particular emphasis will be placed on assessing how the employment restrictions imposed by the Taliban regime constitute a violation of internationally recognized human rights and labour standards.

b) **Empirical based research techniques:** This part will employ a qualitative research approach and distribute the questionnaire to respondents particularly to those women who have been impacted by employment bans imposed by Taliban. The respondents will be selected based on the below indicators:

- Women who have lost their formal jobs due to the restrictions imposed by Taliban after seizing power in August 2021. The survey will be conducted through a secure online KOBO platform, ensuring the safety and anonymity of the participants.
- Women who are between aged 19 to 59 years old can take part in this survey.
- Due to the accessibility and financial constraints, the current survey will be only focusing on three provinces of Afghanistan including Herat, Ghor and Badghis. The survey's questions will be designed using Likert scale (agree and disagree), additionally, the questions will focus to examine three main dimensions such as social, economic, and psychological impacts on Afghan women's daily lives. Answering to questions will take approximately lesser than 8 minutes.

CHAPTER II

NATURAL LAW, GENERAL OVERVIEW OF HUMAN RIGHTS THEORIES, DE FACTO AUTHORITY RESPONSIBILITIES TOWARDS HUMAN RIGHTS, AND WOMEN'S RIGHT TO WORK UNDER INTERNATIONAL LAW

This chapter will critically examine the foundations of human rights through natural law theory and human rights concept. The particular attention will be given to the explore the responsibilities of Non state actor (*De facto authorities)* towards upholding of human rights. It considers whether and to what extent authorities exercising effective control over a population have obligations to respect and protect fundamental human rights, regardless of their formal legal or international status. The chapter also focuses on right to work particularly women's right to work under international human rights law, examining the principles of equality, non-discrimination, and equal access to employment. These foundations provide the legal and theoretical frameworks for assessing the protection of women's right to work.

A. Natural law theory

Under natural law theory, it's important to mention that certain moral principles and standards are understood to exist independently of human-made laws and political institutions. These principles are not created by governments or legislatures; rather, they are being regarded as inherent in human nature and discoverable through human reason. Natural law therefore provides a moral standard against which human conduct and positive law can be assessed. Acts such as respecting human dignity and pursuing justice are generally regarded as natural rights of human being, whereas acts such as the unjust killing of innocent persons

are regarded as inherently wrong.[58] An important premise of natural law theory is that certain rights and moral principles existed prior to the establishment of government and positive legal systems. This idea is commonly associated with the concept of the "state of nature," in which human beings are understood to possess certain rights and freedoms before entering into an organized political society. It's worthede to mention that under this theory, natural rights do not take their legitimacy from the state, Rather, they are considered universal, belonging to all human beings just by virtue of their humanity. This proposition provides an important philosophical foundation for the modern understanding of human rights. Under this theory human rights that are inherent, universal, and not dependent upon governmental recognition and government is there merely to protect these rights.

The intellectual foundations of natural law can be traced to the writings of Socrates, Plato, and Aristotle in ancient Greece, whose philosophical works contributed to the development of the idea that justice and morality are not exclusively products of human legislation. [59] The theory was subsequently developed by other philosophers such as John Locke, who employed natural law principles to articulate an important conception known as inherent individual rights. Locke articulated that every individual possesses fundamental rights including right to life, liberty, and property just by virtue of being human. [60] These rights are not gifts given by the state or government; rather, the primary function of government is to recognize, protect, and preserve these rights. This conception became particularly significant in subsequent development of modern human rights concept.

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[58] Politechnika Śląska,Wydział Organizacji i Zarządzania, Katedra Stosowanych Nauk Społecznych and Orbik, "Human Rights in the Light of the Concepts of Natural Law," 280.

[59] Politechnika Śląska,Wydział Organizacji i Zarządzania, Katedra Stosowanych Nauk Społecznych and Orbik, "Human Rights in the Light of the Concepts of Natural Law," 280.

[60] Heyman, *THE LIGHT OF NATURE: JOHN LOCKE, NATURAL RIGHTS, AND THE ORIGINS OF AMERICAN RELIGIOUS LIBERTY*, 735.

For John Locke, the capacity for reasoning is central to understanding of natural law. In this context, reason does not refer merely to education, intelligence, or intellectual achievement. Instead, it refers to the human capacity to distinguish between right and wrong and to recognize fundamental moral principles. [61] Through reason, individuals will be able to understand that the moral value they attribute to their own lives must also be extended to the lives of others. For example, if an individual recognizes that his or her own life deserves protection, the same reasoning requires recognition of the equal value of another person's life. In this sense, reason enables human beings to recognize that all persons possess inherent moral worth and are entitled to moral respect. [62] Locke further maintained that human beings possess an equal capacity for reason and, consequently, possess equal moral status. [63] Thus, differences in social position, wealth, political authority, or occupation do not establish differences in fundamental human worth. A king and a farmer, for example, possess the same basic moral status because both are human beings endowed with reason. This conception of human equality and inherent dignity is particularly significant to the development of modern human rights. [64] The idea that rights belong equally to all persons, regardless of their social or political status, constitutes one of the fundamental philosophical foundations upon which contemporary human rights discourse has been developed.

B. Human Rights concept

The concept of human rights is centered on the principle that all human beings are born free and equal in dignity and rights, endowed with reason and conscience. These rights are considered inherent and inseparable parts of human

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[61] Heyman, *THE LIGHT OF NATURE: JOHN LOCKE, NATURAL RIGHTS, AND THE ORIGINS OF AMERICAN RELIGIOUS LIBERTY*, 729.
[62] Heyman, *THE LIGHT OF NATURE: JOHN LOCKE, NATURAL RIGHTS, AND THE ORIGINS OF AMERICAN RELIGIOUS LIBERTY*, 729.
[63] Heyman, *THE LIGHT OF NATURE: JOHN LOCKE, NATURAL RIGHTS, AND THE ORIGINS OF AMERICAN RELIGIOUS LIBERTY*, 719.
[64] Heyman, *THE LIGHT OF NATURE: JOHN LOCKE, NATURAL RIGHTS, AND THE ORIGINS OF AMERICAN RELIGIOUS LIBERTY*, 730.

dignity, serving as ideas that inspire the pursuit of freedom, equality, and dignity for all people regardless of their status, sex, language, political opinion and so on. Human rights Core Concepts are including universality and inalienability. Universality means that all human are entitled certain right which they can exercise it without distinction of any kind, such as race, sex, religion, or national origin. Inalienable concept indicates that human rights cannot be transferred, assigned or taken away.[65]. They are inalienable, meaning no individual or institution should act to ignore or violet them. More importantly, human rights are Grounded in Fundamental Values, this concept highlights that Human rights are not merely instruments for achieving specific goals; they are ends in themselves, grounded in values such as dignity, self-respect, and self-actualization.[66] It's important to highlight that the concept of human right has a Broad Scope of Protections which includes, right to life, liberty, and security, Freedom from slavery, torture, and arbitrary detention, Legal protections, such as equality before the law, the right to a fair trial, and the presumption of innocence, Personal freedoms, including the right to privacy, freedom of movement, and freedom of thought, religion, and expression, Socio-economic rights, such as the right to work in decent conditions, the right to social security, and the right to an adequate standard of living and education. [67]

Based on Alison Dundes Renteln human rights concept must consist of four key characteristics such as *" it must be possessed by all human being, as well as only by human beings, secondly, because it is the same right that all human beings possess, it must be possessed equally by all human beings, thirdly, because human rights are possessed by all human beings, we can rule out as possible candidates any of those rights which one might have in virtue of occupying any particular statues of promise . fourthly, if there are any human*

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[65] Frederic Megret, *The_Nature_of_International_Human_Rights*, 4,5,6.
[66] Alison Dundes Renteln, "The Concept of Human Rights," *Nomos Verlagsgesellschaft mbH* Anthropos, 1988, Bd. 83, H. 4./6. (1988) (March 2022): 348, https://www.jstor.org/stable/40463371.
[67] Shalini alias Simmy, "Importance of Fundamental Rights in Indian Constitution," *International Journal of Law, Policy and Social Review* (Anangpuria Institute of Law, Alampur, Faridabad, Haryana, India) Volume 5, no. Issue 3, 2023 (2023): 104.

rights, they have the additional characteristic of being assertable, in a manner of speaking against the whole world". [68] This concept indicates that since only humans are capable of possessing human rights, it must belong to every individual (all human being) just by virtue of their humanity nothing els. This asserts that citizenship, gender, religion, or nationality does not have any impact on this right. For instance, everyone, in any corner of the world has the right to life, right to education, right to work and so on.

Meanwhile, since everyone has the same human rights, therefore, all human beings must be enjoying the equal rights without any discrimination. It's important to highlight that, there is any concept of superior or inferior exist under human rights framework, meaning that no human is superior to the others, everyone without any discrimination must enjoy the same rights and opportunities as others. Therefore, the idea that all people are morally equal is the core foundation of human rights. Third, social standing or roles have no consequence on human rights. Many societal rights are dependent on particular statuses, such as citizenship, employment status, or official status sexist independent of these functions, human rights are distinct. Consequently, everyone can exercise them Just by virtue of being human. more importantly, anyone who violates human rights may be held accountable, this implies that anyone who violets human rights including individuals, organizations and government are accountable towards their actions. [69] Now that we familiarized our selfies about the concept of Human rights, it's important to understand how and when this critical concept formed.

1. The formation concept of human rights:

While the formal term "Human Rights" is a relatively recent 20th-century development, the underlying concept is as old as human civilization itself. The formation and origins of human rights evolved through several key stages, from religious to ancient philosophy and teachings to modern international law. for

[68] Renteln, "The Concept of Human Rights," 347.
[69] Renteln, "The Concept of Human Rights," 348.

instance, in Islam religion the concept of human rights and human dignity is rooted in the Quran and Sunnah, As Qruan states that every human being has inherent dignity because humans are creations of Allah, this idea appears in Qur'an *17:70*, which explains that Allah has *honored the children of Adam*. From this perspective, dignity is universal; it belongs to all human beings regardless of race, tribe, or social status. Additionally, it identifies equal responsibilities and rewards for both men and women and dictates right behavior toward others.

Apart from Religion, the concept of human rights has roots in in Greek Philosophy, Early Greek thinkers developed the idea of "natural law" or "natural right," believing that human beings possess an "insight" that reveals absolute and eternal values. Ancient Greek citizens practiced concepts like *isonomia* (equality before law), *isotomia* (equal respect), and *isogoria* (equal freedom of speech). Meanwhile, the Code of Hammurabi (c. 2000 BCE) sought to prevent the strong from oppressing the weak. in the Middle Ages, scholars such as St. Thomas Aquinas argued that natural law is superior to man-made laws. He famously claimed that "unjust laws have no moral validity" and could be disobeyed if they contravened natural law. other Scholars like Thomas Hobbes and John Locke championed individual freedom and equality. Locke argued that rights to life, liberty, and property existed in a "state of nature" even before humans formed organized societies. Jean-Jacques Rousseau's Social Contract Theory furthered these ideas with the slogan "Liberty, Equality, Fraternity". [70] Following the peace conference held in Paris in 1919, the Treaty of Versailles was drafted, which subsequently led to the establishment of the League of Nations in 1920. Although this treaty did not explicitly address human rights, the principle of self-determination emerged as an important concept in the post-war international order. However, it's worthed to note that the Modern Formalization of concept of human rights was formally and universally recognized after Following the atrocities of the World War 2. the UN General Assembly adopted the Universal Declaration of Human Rights (UDHR) on

[70] Surinder Kaur, "HISTORICAL DEVELOPMENT OF HUMAN RIGHTS," *JOURNAL OF SOCIAL SCIENCE RESEARCH* 6, no. 2 (2014): 997, https://doi.org/10.24297/jssr.v6i2.3469.

December 10, 1948. This landmark document consists of a preamble and 30 articles that define the fundamental freedoms to which every human being is entitled, regardless of race, religion, or nationality. Which later the sources describe human rights as an evolving concept that has expanded to include three distinct categories or "generations" including Civil and Political Liberties, these consist of the right to enjoy freedoms such as thought, speech, assembly, religion, and participation in government, as well as protections like freedom from arbitrary arrest, torture, and unfair trials. Secondly, Social and Economic Rights, this category focuses on the fulfillment of vital needs, specifically including the rights to food, shelter, health care, education and right to work. The third Generation Rights, these are explicitly identified as rights that have expanded to encompass collective interests belonging to people rather than just individuals. Such as the right to self-determination, right to sovereignty over natural wealth and resources and so on.[71]

C. Government recognition theory

Under the government recognition theory, there is a framework called "legitimacy" concept. As this is clear from it's name, this concept mainly focuses on legitimacy of a government and it's relevant elements. Based on this theory Often the legitimacy of a government comes from the constitutional basis. [72] It's important to mention that under this theory, the official recognition of the government by other state adds to the legitimacy of a government, [73] however, it's worthed to mention that this act is more politic based on their interest of each country rather than being legal act. According to this theory, legitimacy and legality are more important than merely having effective control over a territory. [74] It emphasizes that recognizing a group solely because it has seized power and established effective control over the population would encourage unconstitutional

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[71] Kaur, "HISTORICAL DEVELOPMENT OF HUMAN RIGHTS," 998.
[72] Pavlopoulos, "Between Legitimacy and Control."
[73] D'Aspremont, "LEGITIMACY OF GOVERNMENTS IN THE AGE OF DEMOCRACY," 833.
[74] Fabienne Peter, "Political Legitimacy," in *The Stanford Encyclopedia of Philosophy*, Spring 2022 Edition (The Metaphysics Research Lab, Stanford University, April 29, 2010), https://doi.org/https://plato.stanford.edu/archives/spr2022/entries/legitimacy/?utm.

seizures of power and undermine democracy and the rule of law.

This raise a great question, what constitutes a legitimate government? or what are the characteristics of A legitimate government? under the concept, a legitimate government is the one who possesses power and authority usually with a constitutional legal basis of a particular state. [75] For instance, where a constitution recognizes elections as the lawful means of obtaining political power, a government must be elected in accordance with those constitutional requirements in order to be regarded as legitimate.

Therefore, it can be concluded that Legitimacy is a fundamental characteristic which indicates that authority has the legal right to act and represent a state within the international legal order. In practice, the recognition or rejection of a government by foreign states serves as an important test of legitimacy. [76]. Its important to highlight that the absence of recognition by other States may raise doubts about a government's ability to represent the State in international relations, particularly where governmental status is contested. [77] Based on *Peter* and *Fabienne* in the contemporary era, democracy has become the cornerstone of this theory. [78] This reflects the view that only governments that come to power through constitutional and legitimate processes are capable of legitimately representing the state. In a democratic system, the transfer of political power takes place in accordance with constitutional procedures and through elections conducted by the people. Accordingly, the people directly choose their representatives, and democracy functions as the foundation upon which governmental legitimacy is established. In contemporary international law, legitimacy is generally assessed through two principal elements. The first one examines whether a government obtained power through free, fair, and constitutional elections. while, the second

[75] D'Aspremont, "LEGITIMACY OF GOVERNMENTS IN THE AGE OF DEMOCRACY," 905.
[76] Pavlopoulos, "Between Legitimacy and Control."
[77] Pavlopoulos, "Between Legitimacy and Control."
[78] Peter, "Political Legitimacy."

one, evaluates whether the government governs in accordance with the rule of law while respecting fundamental rights and political freedoms:[79]

1. Legitimacy of Origin: This focuses on the source of governmental authority, assessing whether a government came into power through a free and fair electoral process or not.

2. Legitimacy of Exercise: This concerns the manner in which governmental power is exercised, particularly whether the government respects the rule of law and fundamental political freedoms

These two elements play a crucial role in determining the legitimacy of a government. The first element, legitimacy of origin, concerns the manner in which a government acquires the power. According to this view, a legitimate government is the one which has been chosen by the people through a lawful electoral process. [80] The second element, legitimacy of exercise, examines how a government exercises its authority after assuming power. It focuses on whether the government governs in accordance with the law and respects fundamental rights and freedoms. [81] According to *Jean d'aspremont* "legitimacy came to be linked to "the will of the people.[82]

For example, under this approach, a legitimate government is one in which individuals enjoy political, social, and civil rights. In addition, citizens should be able to exercise freedoms such as freedom of expression, freedom of movement, freedom of assembly, and the right to employment. Consequently, it can be concluded that a full legitimate government is the one which it satisfies both the

[79] D'Aspremont, "LEGITIMACY OF GOVERNMENTS IN THE AGE OF DEMOCRACY," 882.
[80] D'Aspremont, "LEGITIMACY OF GOVERNMENTS IN THE AGE OF DEMOCRACY," 883–84.
[81] D'Aspremont, "LEGITIMACY OF GOVERNMENTS IN THE AGE OF DEMOCRACY," 883–84.
[82] D'Aspremont, "LEGITIMACY OF GOVERNMENTS IN THE AGE OF DEMOCRACY," 883–84.

requirements of legitimacy of origin and legitimacy of exercise.[83]

D. The responsibility of De facto authority towards human rights

Protecting and upholding human rights is a critical responsibility that falls within the role of the state. [84] According to the United Nations, these responsibilities includes respecting, safeguarding (protecting), and promoting human rights within its jurisdiction. [85]This indicates that the responsibility of the state goes beyond merely respecting human rights; states are not only required to refrain from violating them, but also to protect these rights from interference by other actors and they are to ensure that perpetrators are prosecuted and held accountable in accordance with the law. Moreover, states are responsible for promoting human rights, which entails developing policies, programs, and legal frameworks aimed at enhancing the protection of human rights and ensuring that all individuals can fully enjoy their fundamental rights within the territory. It's important to mention that under the doctrine of limitation of action, government authority is authorized to limit certain human rights in time of emergency. According to Eko Riyadi, limitations of human rights describes contexts in which authorities restrict the enforcement, preservation, and implementation of human rights under particular conditions. [86] The conditions are describing as below: [87]

a) When the limitations are legal or lawful;
b) When it respects the nature of the right; and

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[83] Peter, "Political Legitimacy."
[84] Adam McBeth, "Every Organ of Society: The Responsibility of Non-State Actors for the Realization of Human Rights," *Hamline Journal of Public Law and Policy,* Vol. 30, no. No. 1, 2008 (2013): 25, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2345974.
[85] Peter, "Political Legitimacy."
[86] Eko Riyadi et al., "Ungerminated Seed: Proportionality Test in the Indonesian Constitutional Court," *Padjadjaran Jurnal Ilmu Hukum (Journal of Law)* 12, no. 2 (2025): 2, https://journal.unpad.ac.id/pjih/vol12/iss2/2.
[87] Manisuli Ssenyonjo, *Economic, Social and Cultural Rights*, Tom Campbell, The International Library of Essays on Rights (Ashgate, 2011), 40–44.

c) When the limitations are only for general welfare in a democratic society.

Article 4 of international convention economic social and cultural rights (ICESCR) serves as a limitation provision applicable to all economic, social, and civil human rights within a society. This provision empowers the government to restrict specific associated rights within its jurisdiction. Nevertheless, this limitation does not confer complete authority and power upon the government. Which means government cannot limit all economic, social and cultural associated rights without any considerations. Conversely, imagine in case the government is to limit some of human rights, there are certain requirements as described above which must be fulfilled. Firstly, Legal and lawfulness, means that every imposed law should go through it's legal process so that it becomes a law. when a state restricts certain economic, social, and civil rights, such limitations must be in a written form, it must be clear, accessible, and enforceable. If an enacted law lacks any of the highlighted factors, the government cannot restrict it.

The second pillar is adherence to the nature of rights. Government limitations must not contravene the essence of the law; rather, any associated actions should uphold and reinforce it. The essence of law is to bring justice and protect the rights of human being. therefore, violating this aspect is against the goal and objects of law. For instance, prohibiting women from their certain rights are contravenes the essence of the right. The third pillar is in the matters of general welfare, if the government seeks to restrict any human right, it must be in the interest and benefit of the citizens, rather than to their detriment. The limitations must be related to brining more safety, security and wellbeing to the people not deteriorating their life.[88]The prohibition of women from employment opportunities in Afghanistan contravenes the welfare and public interest of Afghan society, in particular for women. Therefore, it is impermissible. [89]

[88] Riyadi et al., "Ungerminated Seed: Proportionality Test in the Indonesian Constitutional Court," 2.
[89] Ssenyonjo, *Economic, Social and Cultural Rights*, 45–52.

However, a key question arises: what happens when a *De facto authority* replaces a legal and legitimate government? does such an entity obligated to uphold human rights in the same way as a state, and to what extent are they bound to protect these rights? To address these crucial questions, this section focuses on *De facto authority*, hereinafter referred to as "DFA" and their responsibilities towards upholding human rights under international law. In particular, under chapter three the case of Afghanistan will be examined and it further explores whether the Taliban regime as an *DFA*, bears the responsibility of upholding human rights or not?

It's important to note that the under traditional view it's only states who governs and rule a territory, and that the absence of a legitimate government the state or area will remain ungoverned. This assumption is flawed: in practice, no territory exists without some form of authority. Where the state is absent or weakened, other actors such non state actors often assume governing functions and operate as *De facto* rulers. Particularly since the early 21st century, this state-centric understanding has been increasingly questioned. Scholars have highlighted the term of *de facto* authority, referring to entities that exercise control over a state or parts of it without possessing legal legitimacy. From a political science perspective, *De facto authority* referred to those who administer a territory, interact with civilian populations, manage resources, and sometimes engage in external relations.[90]

A core principle of human rights theory is the regulation of the relationship between those who exercise authority and the populations subject to it. thus, some scholars argued that responsibility of bearing human rights duties completely falls under the responsibility of state, this is mainly because under the traditional view of international law human rights concept was initially designed to protect citizens towards abuse of power by the states. Thus, it's merely the state who bears the responsibility of fulfilling the human rights in the ground. Based on Professor *Sir William Wade* a well know British lawyer, the tradition understanding of human right aims that it must be protected from the state such as *Nazi Germany*, while the

[90] David Teiner, "Rebel Governance: A Vibrant Field of Research," *Zeitschrift Für Politikwissenschaft* 32, no. 3 (2022): 748, https://doi.org/10.1007/s41358-022-00328-0.

modern idea which shaped in recent years, mainly in the west is that, human rights must be protected from all types of groups who possess power, including *Governments*, *non-state actors*, *corporations* and any *individuals*. [91] The binding of *de facto* authorities under international law particularly with respect to human rights obligations remains a highly controversial issue. In the absence of a clear and universally accepted legal standard defining the extent of such obligations for *de facto* entities, their precise responsibilities remain uncertain. However, this lack of clarity does not imply that these actors are free from responsibility under international human rights law, Rather, it necessitates a more nuanced examination of the issue through detail explanation which will be provided under Chapter three

1. De facto Authority and effective control concept

The lack of an explicit attribution of human rights obligations to *De facto* authorities under international law does not imply that they are free of any obligation, nor that they are exempt from the responsibility to safeguard human rights. In fact, they possess a limited form of international legal personality that entails certain obligations and responsibilities. According to the territorial effective control concept, the fulfillment of human rights obligations rests with those actors that physically exercise control within a state. [92] this is mainly because as the governing authorities, they are the one who interact directly with the population, and their decisions and actions significantly influence various aspects of people's lives, including economic, political, and social dimensions. [93] It is important to

[91] Clapham, *Human Rights Obligations of Non-State Actors*, XV/1, 58
[92] Yael Ronen, "Human Rights Obligations of Territorial Non-State Actors," *Cornell International Law Journal*, Article 2., Vol. 46, no. Issue 1 Winter 2013 (2013): 26, Available at: http://scholarship.law.cornell.edu/cilj/vol46/iss1/2.
[93] Katri Susanna Hoch., "De Facto States and Accountability for Human Rights from the Perspective of European Court of Human Rights" (University of Zurich, 2021), 83, https://www.menschenrechte.uzh.ch/de/Suche.html?q=Vorgelegt+von+Katri+Susanna+Hoch.

highlight that exercising control over a territory reflects that *De facto authority* has both the capacity to govern and the authority to act accordingly. [94]

Katri and *Jonte van Essen* defines De facto as "an entity that wields at least some effective authority over a territory," [9596] characterized by a certain degree of political and organizational capacity, and which seeks to represent the state over which it exercises partial or complete territorial control as an official government. Conversely, *Andrew Clapham* argues that international law identifies two main characteristics for a *De facto* entity: first, it must exercise effective control over a certain territory; and second, the conflict in which it is involved must be of a prolonged nature.[97] [98]

Annyssa Bellal, in her article *International Law and Armed Non-State Actors in Afghanistan*, proposes an interpretive approach grounded in analogy. She argues that the criteria of "effective control," as developed by the Human Rights Committee in determining the extraterritorial obligations of states under the International Covenant on Civil and Political Rights, can provide a useful benchmark. [99] In addition, the *tripartite typology* of obligations to respect, protect, and fulfil formulated by UN human rights treaty bodies for states may serve as a conceptual framework for assessing the extent of *De facto authority's* human rights responsibilities. This reasoning implies that where a state exercises effective control beyond its formal territory, it remains bound by its human rights obligations in those

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[94] Katri Susanna Hoch., "De Facto States and Accountability for Human Rights from the Perspective of European Court of Human Rights," 84.
[95] Jonte Van Essen, "De Facto Regimes in International Law," *Utrecht Journal of International and European Law* 28, no. 74 (2012): 33, https://doi.org/10.5334/ujiel.ay.
[96] Katri Susanna Hoch., "De Facto States and Accountability for Human Rights from the Perspective of European Court of Human Rights," 15.
[97] Andrew Clapham, "Human Rights Obligations of Non-State Actors in Conflict Situations," *International Review of the Red Cross* 88, no. 863 (2006): 492, https://doi.org/10.1017/s1816383106000658.
[98] McBeth, "Every Organ of Society: The Responsibility of Non-State Actors for the Realization of Human Rights," 32.
[99] Annyssa Bellal et al., "International Law and Armed Non-State Actors in Afghanistan," *International Review of the Red Cross* 93, no. 881 (2011): 70, https://doi.org/10.1017/S1816383111000051.

areas. By extension, where *De facto authority* exercise comparable levels of effective territorial control, they may likewise be considered responsible for upholding corresponding human rights standards.[100]

It is important to emphasize that the existence of effective control and the corresponding obligation to respect human rights does not confer legitimacy on *De facto authority*. As *Andrew Clapham* correctly notes, a clear distinction must be drawn between legal legitimacy and the attribution of responsibility. Even in the absence of law-making authority, *De facto authority* may still bear legal obligations under international law. Holding such actors accountable for their conduct does not amount to legitimizing them as lawful authorities; rather, it reflects the basic principle that any entity exercising power over individuals must answer for violations arising from that power.[101]

2. De facto authority and general responsibility of human rights:

Under international law, the primary responsibility for respecting, protecting, and fulfilling of human rights traditionally falls under responsibility of states. Consequently, international human rights treaties generally impose legal obligations on states rather than on *De facto authority* (DFA). As a result, there is no comprehensive provision under international human rights law that expressly imposes direct human rights obligations on *DFA*. However, the increasing involvement of *DFA* in governing territory and exercising effective control over civilian populations has generated considerable debate regarding their human rights responsibilities. In order to properly understand this issue, it is necessary to examine two contrasting approaches that have shaped the legal discourse. The first is the

[100] Bellal et al., "International Law and Armed Non-State Actors in Afghanistan," 70–71.
[101] Clapham, *Human Rights Obligations of Non-State Actors*, XV/1, 28–29.

traditional (or classical) state-centric approach, which asserts that states are the primary duty-bearers under international human rights law. [102]

Traditionally, the doctrine of state responsibility has regarded states as the primary duty-bearers under international human rights law. According to this classical state-centric approach, international human rights obligations are imposed directly on states, while non-state actors, including *De facto authority*, are generally not considered direct legal duty-bearers. Consequently, where a non-state actor violates human rights, the responsibility under international human rights law primarily falls upon the state. This responsibility arises from the state's positive obligations to prevent human rights violations, regulate the conduct of private actors, investigate alleged abuses, prosecute those responsible where appropriate, and provide effective remedies to victims. Accordingly, states are required to respect, protect, and fulfil human rights by ensuring that all individuals within their jurisdiction are able to enjoy their rights and freedoms without discrimination or unlawful interference.[103] For instance according to article 2.1 of the International Covenant on Civil and Political Rights (ICCPR), it's mainly the responsibility of state to uphold human rights *"Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant..."*.[104] in addition to that, article 2.1 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) give the responsibilities of fulfilling the human rights to the state actors by indicating that *"Each State Party... undertakes to take steps... to achieve progressively the full realization of the rights recognized in the present Covenant."* [105]

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[102] Philip Alston, ed., *Non-State Actors and Human Rights*, Repr, The Collected Courses of the Academy of European Law, 13,3 (Oxford Univ. Press, 2011), 4–5.
[103] Alston, *Non-State Actors and Human Rights*, 15.
[104] COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, "General Comment No. 18 on the Right to Work," 8.
[105] Ssenyonjo, *Economic, Social and Cultural Rights*, 185–86.

However, it's worthed to note that the traditional or state-centric approach has become increasingly challenged in the contemporary international legal order. This is primarily because limiting human rights obligations exclusively to states creates significant accountability gaps, allowing powerful non-state actors to exercise authority and influence without corresponding legal responsibilities. In many situations, armed groups, multinational corporations, and *De facto authority* possess the capacity to govern populations, control territory, and directly affect the enjoyment of fundamental human rights. Yet, under the traditional approach, they are generally not regarded as direct duty-bearers. The lack of direct accountability, in many instances, contributed to serious human rights violations. In response to these challenges, scholars have developed the contemporary approach, which argues that certain non-state actors particularly those exercising de facto governmental authority or effective territorial control should bear direct human rights obligations and be held accountable for violations of international human rights standards.

The contemporary approach departs from the traditional state-centric model by arguing that certain non-state actors, particularly those exercising de facto governmental authority or effective territorial control, should also bear direct obligations under international human rights law and be held accountable for violations of internationally recognized human rights. This approach is based on the recognition that the contemporary international legal order has evolved significantly, with non-state actors including *De facto authority*, international organizations, and multinational corporations often exercising powers traditionally reserved for states. In many situations, these actors have the capacity to govern populations, enact and enforce rules, and directly affect the enjoyment of fundamental human rights. [106]

Proponents of this approach argue that limiting human rights obligations exclusively to states creates significant accountability gaps, allowing powerful

[106] Alston, *Non-State Actors and Human Rights*, 4–5.

actors to commit human rights violations with little or no legal responsibility. Consequently, a growing body of scholarly opinion maintains that non-state actors are not entirely exempt from human rights obligations. In support of this view, *Gráinne de Búrca* asserts an approach that moves beyond a strictly state-centric framework. She further argues that the traditional state-centric framework is no longer sufficient to address the realities of contemporary global governance. She advocates an approach that extends beyond the exclusive focus on states and recognizes that non-state actors exercising substantial public authority should also be subject to international human rights obligations. This evolving interpretation reflects the growing consensus among legal scholars that accountability under international human rights law should correspond to the actual exercise of power, regardless of whether that power is exercised by a state or by a non-state actor(*De facto authority).*

As highlighted by *Gudmundur Alfredsson and Maria Stavropoulou* in *Justice Pending: Indigenous Peoples and Other Good Causes*, certain international human rights instruments are formulated in general terms, implying that non-state entities are also obliged to observe them. These include the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women, and the UN Declaration on the Elimination of All Forms of Discrimination against Women. [107] According *Gráinne de Búrca* [108] *and* Erica-*Irene Daes* Based on *a*rticle 29 of the Universal Declaration of Human Rights recognizes the responsibility of all individuals including *De facto authority* by stating that "*everyone has duties to the community*…" This underscores that not only states, but also individuals and groups regardless of their status bear responsibility of upholding human rights.

[107] *Justice Pending: Indigenous Peoples and Other Good Causes*, Gudmundur and Alfredsson Maria Stavropoulou, Raoul Wallenberg Institute Human Rights Library (Kluwer Law International, The Netherlands; Martinus Nijhoff Publishers, 2002), 243.
[108] Clapham, *Human Rights Obligations of Non-State Actors*, XV/1, 33.

Additionally, Article 30 often referred to as a safeguard clause affirms that no actor, whether state or non-state, may invoke the Declaration to justify violations of human rights. As it is evident, the Universal Declaration of Human Rights imposes obligations on non-state actors (*DFA*)to respect human rights implicitly. [109] This serves as a clear indication that the traditional state-centered approach is no longer entirely adequate, particularly given that, in some cases, non-state actors(*DFA*) may possess power comparable to or even greater than that of states, enabling them to exert significant influence. Therefore, under a more contemporary understanding of international law, perpetrators of human rights violations are not limited to state authorities. Moreover, restricting the concept of human rights obligations to states narrows the scope of their implementation, especially considering that many violations such as violence against women, abuse, and other inhumane acts occur in private settings and are committed by non-state actors(*DFA*). Consequently, focusing exclusively on states as duty-bearers allows non-state (*DFA*)perpetrators to evade accountability, leading to broader societal harm and leaving many violations unaddressed or even exacerbated. [110] In conclusion, expanding the scope of human rights obligations does not weaken the system; rather, by aligning it more closely with social realities, it strengthens its effectiveness.

3. De facto authority and international practice:

Although international human rights law has traditionally regarded states as the primary duty-bearers who are responsible for respecting, protecting, and fulfilling of human rights, contemporary international practice suggests that certain non-state actors are not entirely exempt from human rights responsibilities, this is mainly because there are growing body of international practice indicates that *De facto authority* exercising significant authority or effective territorial control are increasingly expected to comply with fundamental human rights standards.

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[109] *Justice Pending: Indigenous Peoples and Other Good Causes*, 245.
[110] Clapham, *Human Rights Obligations of Non-State Actors*, XV/1, 34–35.

According to *Tainer*, developments in international practice demonstrate that *de facto authorities* may also be bound to respect certain human rights obligations.

One notable example is the United Nations Security Council's Monitoring and Reporting Mechanism (MRM) on children and armed conflict, established by Resolution 1612 (2005). The mechanism monitors six grave violations against children committed by both state forces and armed non-state actors, including the recruitment and use of child soldiers, killing and maiming of children, attacks on schools and hospitals, and abduction. *Armed groups* found responsible for such violations may be listed in the Secretary-General's annual reports and become subject to targeted sanctions. By placing armed non-state actors under the same monitoring and accountability framework as states, this mechanism reflects the growing recognition that such groups(*DFA*) despite the fact that they are not state. yet, they are expected to respect fundamental human rights and humanitarian norms. [111]

This evolving approach is further reflected in the practice of the United Nations Human Rights Council, whose commissions of inquiry, fact-finding missions, and Special Rapporteurs have increasingly addressed *De facto authority* directly. In situations such as Syria, [112] Myanmar,[113] and Afghanistan, these bodies have repeatedly called upon armed groups and *De facto authorities* to cease human rights violations, protect civilians, and comply with international human rights standards. In the case of Afghanistan, [114] the Human Rights Council and the Special Rapporteur have consistently directed recommendations to the Taliban, urging the

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[111] Bellal et al., "International Law and Armed Non-State Actors in Afghanistan," 66.
[112] United Nations General Assembly, "Independent International Commission of Inquiry on the Syrian Arab Republic A_HRC_30_48-EN," United nations General Assembly, August 13, 2015, 21-22–23, https://digitallibrary.un.org/record/802582?ln=en&utm=&v=pdf.
[113] Human Rights Council, "Sexual and Gender-Based Violence in Myanmar and the Gendered Impact of Its Ethnic Conflicts," Human Rights Council, September 9, 2019, 58,59,60,61, https://www.ohchr.org/en/hr-bodies/hrc/myanmar-ffm/sexualviolence.
[114] Secretary-General, "Report of the Special Rapporteur on the Situation of Human Rights in Afghanistan, Richard Bennett," United nations General Assembly, October 8, 2025, 19-20–21, https://docs.un.org/en/A/80/432.

De facto authorities to reverse restrictions on women's rights, restore women's access to employment and education, and comply with their obligations under international human rights law. [115]Although these practices do not create new treaty obligations, they constitute persuasive evidence of an emerging international expectation that *De facto authority* exercising governmental authority should also bear responsibilities for respecting human rights.

Another relevant international practice demonstrating that the protection of human rights is not limited to states is the *Kampala Convention.* This instrument goes further than many others by explicitly incorporating non-state actors into its framework. It recognizes that such actors may bear responsibilities not only under international humanitarian law but also with respect to human rights. In particular, Article 2 of the Convention identifies as one of its core objectives the clarification of the obligations and responsibilities of non-state actors in preventing internal displacement and ensuring the protection and assistance for the internally displaced persons. Furthermore, Article 7 outlines a range of obligations applicable in this context, including prohibiting acts such as denying internally displaced persons the right to "*live in conditions that meet basic standards of dignity, security, sanitation, food, water, health, and shelter*." [116] Taken together, these provisions indicate an emerging recognition within international practice that non-state actors can bear responsibilities relevant to human rights protection, even if the precise legal nature and scope of those obligations remain contested.

[115] OHCHR, "A/80/432: The Situation of Human Rights in Afghanistan - Report of the Special Rapporteur on the Situation of Human Rights in Afghanistan," OHCHR, OHCHR, October 8, 2025, https://www.ohchr.org/en/documents/country-reports/a80432-situation-human-rights-afghanistan-report-special-rapporteur.
[116] Bellal et al., "International Law and Armed Non-State Actors in Afghanistan," 66.

E. International Human Rights Law

1. Human Rights Treaties

Following to the modification of Universal Declaration of Human Rights (UDHR) serving as the most important global instrument, inspiring numerous national and international commitments by the United Nation in 1948, and Given the fact that UDHR is a soft law without being legally binding for the state members, the United nation with collaboration of the states created something stronger from the legal perspective which is called "human rights treaties" the treaties the central part of human rights concept, they creates legal obligations for the states who ratified them. The treaties are international agreements between states which they legally obliged themselves to be bind towards certain provisions. The binding nature of human rights treaties comes from an international law principle called *pacta sunt servanda* which means that (agreements must be kept), this principle has been mentioned in article 26th of *Vienna convention* which functions as mother of all international treaties and specifies how the treaties must operate. [117]

Human rights treaties mainly giving three main responsibilities for the states, including respecting, protecting and fulfilling of human rights. these indicators asserts that state must not only prevent any human rights violation but they are obliged to actively protect and safeguard all human rights from any kind of abuse by other groups such as non-state entities(*DFA*) within their territory. the other important part is called fulfillment; this means that states are to take all essential steps in order to make sure that all of their inhabitants are having access to equal human rights without any discrimination. It's worthed to mention that when it comes to the human rights protection, even, the non-state entities are holding duties under several international law instruments. Consequently, both stat and non-state

[117] United Nations, "Vienna Convention on the Law of Treaties (1969)," United Nations, Treaty Series, vol. 1155, p. 331, May 23, 1969, 11.

entities are responsible to safeguard human rights, meanwhile, they will be held accountable in case they commit any abuse or violation.[118]

It's important to highlight that although there are 9 human rights treaties in general under the United States system while, I would like to name the three majors of them which are most relevant to our discussion, including International Covenant on Civil and Political Rights (ICCPR) 1966, International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966 and Elimination of Discrimination against Women (CEDAW) 1979. [119]

F. Right to work under international law

Based on *Krzysztof Drzewicki* Right to work is not merely a social and economic rights but it's part of fundamental human right. The protection of labors and right to work was developed mainly as a result of economic crisis and mass unemployment which happened in Europe before world war 2nd. It was exactly the moment where the ILO played a critical role and started developing the labor standards and it's relevant policies. [120] Early thinking used to treat labor solely as economic survivals, however, over time the paradigm has shifted. There are two major changes that happened firstly, ILO started to connect working conditions to social justice and world peace. Meaning that bad labor conditions and unsatisfied labor can lead to instability in a society. Secondly, work was not just a means of survival but it started being seen as part of human dignity and individual development.

It's important to highlight that after world war I, the international Labor organization (ILO) started addressing labor related issues seriously through flagging the importance of right to work and it's connectivity into social stability

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[118] Syarifaatul Hidayah, "State Responsibility in Protecting Human Rights: An International Legal Prespective," *International Law Discourse in Southeast Asia* (Semarang, Indonesia) 2, Issue:, no. Issue: 2 (2023): 279–304, https://doi.org/https://doi.org/10.15294/ildisea.v2i2.77145.
[119] Kaur, "HISTORICAL DEVELOPMENT OF HUMAN RIGHTS," 999.
[120] Rhona K. M. Smith, *Textbook on International Human Rights*, 6th Edition (Oxford University Press, 2013), 366, https://doi.org/10.1093/he/9780199672813.001.0001.

and peace. [121] while, after World War II in 1944, the Declaration of Philadelphia affirms some two important issues, first: people are not objects, secondly, it articulated that all human beings, regardless of gender, have the right to pursue their well-being in conditions of freedom, dignity, and equal opportunity. This was the time that right to work was connected to human rights. consequently, working was not just seen as means of earning but it's now part of human development and dignity which is officially recognized and protected by international law including United nation and it's regional bodies. [122]

Based on International Labor Organization Convention No. 158, the employment right is one of the fundamental rights of human being. Everyone must have access to fair and equal opportunities to work; there must be no any discrimination nor in opportunities neither in remuneration. More importantly based on ILO Convention No. 158 further *concerning Termination of Employment* (1982) article 4th, the employer can not dismiss workers unfairly and without any solid reasons such as unlawful act or unable to perform the job. In case if any dismissal happens, the staff have the right to challenge the act by seeking the legal remedies. [123] there are three key elements which must be fulfilled by the state when it comes to right to work including: a) Availability means that state parties must provide a system, policies and employment services which it secure working opportunities and make jobs available for it's inhabitants. b) Accessibility this means that People must not be denied from getting employment opportunities because their differences such as race, gender, religion, disability, health status, or social background. consequently, everyone must have equal and fair access to working opportunities and there must be no any discrimination in terms of the accessing the employment avenues. c) Acceptability and quality this indicates that job must be done in safe and secure condition. Under this element, staff must have

[121] Asbjørn Eide et al., *Economic, Social and Cultural Rights*, 2nd edition (Kluwer Law International; Martinus Nijhoff Publishers, 2001), 223.
[122] Asbjørn Eide et al., *Economic, Social and Cultural Rights*, 224.
[123] COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, "General Comment No. 18 on the Right to Work," 4.

the right to freely choose their work and join any trade union in order to safeguard their interest.[124]

Having access to work opportunities are crucial because it's not only beneficial for the personal development and prosperity of an individual, but in fact it leads to societal growth of a country, especially in the economic sector. [125] under international law, there are different legal documents including International Labor Organization (ILO), Universal declaration of human rights (UDHR), International convention on economic, Social and Cultural Rights (ICESCR), Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) which grants the right to work as well as advocates for a non-discriminatory policies in workplace to ensures that both men and women have access to an equal work opportunities including remuneration, working conditions, and access to appropriate resources. [126]

1. International Labor Organization (ILO)

The ILO was established as the UN's first specialized agency in 1946, To this day, it remains the only intergovernmental organization where governments and non-governmental partners collaborate equally. For protecting and safeguarding of right to work, various number of international treaties have been drafted by the ILO, including: *Convention on Discrimination (Employment and Occupation), 1958, Convention on Forced Labour, 1930 and Convention on Equal Remuneration, 1951.* [127] the question that may rais is that what types of work does include under this definition? In response to this, I must highlight that, it includes all types of work

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[124] COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, "General Comment No. 18 on the Right to Work," 4–5.
[125] AuthorTaylor, Ansley Marie, "The Relationship Between Women's Education, Women's Employment, Gender Development, and Gender Inequality A Case Study of Afghanistan," V.
[126] "The Relationship Between Women's Education, Women's Employment, Gender Development, and Gender Inequality | A Case Study of Afghanistan, 2000-2019," n.d., XV.
[127] Council of Europe, "Work - Manual for Human Rights Education with Young people - www.coe.int," Manual for Human Rights Education with Young people, accessed March 14, 2026, https://www.coe.int/lt/web/compass/work.

such as regular job (salary employment, self-employment and remote working) are all included under this category thus, the right to work goes beyond just office based jobs. Based on ILO, right to a decent work has two important aspects including: a) right to work. b) right in work. right to work means that state must create conditions and environment where all citizens who are willing to work have access to work opportunity. For instance, state must develop employment policies, prevent discriminatory hirings and protect workers from unfair dismissal. On the other hand, right in work address the safety and security of staff at the work place such as paying Adequate wages, Non-discriminatory in salary and other types of payments, equal opportunities and acceptable working hours as Article 1st of Convention No. 100 (1951)- Equal Remuneration asserts that *"Equal remuneration for men and women workers for work of equal value refers to rates of remuneration established without discrimination based on sex."* Additionally, article 2nd address the core obligation by indicating that "*Each Member shall… ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value."*[128].

More importantly, right to decent work directly prohibits the labor force meaning that no one including states must force any individual to a job, it must be totally based on the interest and favor of each individual. [129]. Articles 1st, 4th and 6th grant the protection of women during the work from any types of harassment and abuse including gender violence. Meanwhile, Article 4th and 6th of Violence and Harassment Convention, 2019 (No. 190) highlights prohibition of discrimination against women by indicating that "States must adopt laws ensuring "*the right to equality and non-discrimination in employment and occupation, including for women workers".* as it's clear from the text of the highlighted provisions, all types

[128] University of MINNESOTA, "Convention Concerning Equal Renumeration for Men and Women Workers for Work of Equal Value (ILO No. 100), June 29, 1951, Entered into Force May 23, 1953.," Human Rights Library, March 14, 2026, https://hrlibrary.law.umn.edu/business/ilo100.html?utm.
[129] Council of Europe, "Work - Manual for Human Rights Education with Young people - www.coe.int."

of the discrimination towards women's workers including harassment and violence are explicitly prohibited under different conventions of ILO.

2. **Universal declaration of human rights (UDHR)1948**

Discrimination against women and prohibiting women from exercising this right is an explicit violation of human rights. According to Universal declaration of human rights, Human rights are entitlements afforded to individuals only by virtue of their humanity, irrespective of distinctions such as race, gender, political ideology, social rank, religion, or skin color, and are conferred upon each person at the time of birth. Human rights are inalienable and inviolable, signifying that they cannot be relinquished or transferred, nor can they be denied; they must be upheld. [130] The right to work is a fundamental human right that does not belong to a particular area or to a particular group of people instead, they belong to everyone, everywhere without any discriminations. This important right has been recognized under various international law instruments including UDHR.

Ali Kaya and Ertugrul Yilmazer indicate that the right to work is an essential component of human liberties and ultimate rights. Employment is regarded as a fundamental human right, intimately connected with a dignified live, especially for the workforce groups. Everyone must have access to employment opportunities within society and earn adequate income to: a) Meet their essential necessities. b) Preserve their dignity. and c) evolve or advance as an individual. The right to work implies that any individual who is willing and able to engage in employment should have the opportunity to obtain a job and receive a dignified remuneration.[131]

The right to work is a fundamental human right recognized under international law, notably Article 23 of UDHR, stipulates that everyone, without discrimination, must have access to the right to work and concludes that. a) Every individual possesses the right to employment, the liberty to select their profession, equitable and favorable working circumstances, and protection against unemployment. b) All

[130] Kaya and Yilmazer, "The Right to Work as a Fundemantal Human Right," 2019, 152.
[131] Kaya and Yilmazer, "The Right to Work as a Fundemantal Human Right," 2019, 156.

individuals, without discrimination, are entitled to equal remuneration for equivalent work. c) All individuals engaged in work, possess the right to equitable and advantageous compensation that guarantees a life of human dignity for themselves and their families. [132] as It's clear from the text of article 23, it does not only recognize the right to employment for every human being but grants the liberty and freedom for everyone so that they can choose the type profession that they are interested in. More importantly, all forms of discrimination between men and women have been completely prohibited under aforementioned provision. Additionally, right to having equal remuneration is undeniable indicator of this article showing that no discrimination is allowed between men and women when it comes to the payment, compensation, bonuses or any relevant incentives in return to the work which they do. [133]

a) **Right to work and human dignity:**

Right to work is not solely a fundamental human right; rather, it is closely interconnected with other rights, including right to dignity and right to life. [134] This indicates that the right to employment is not independent but rather it's closely linked to other human rights. one of the interconnected right is "dignity" which has been recognized under Article 1 of the Universal Declaration of Human Rights (UDHR) 1948, articulating that all human beings are born free and equal in dignity and rights. Moreover, the Preamble of the International Covenant on Civil and Political Rights (ICCPR) 1966 recognizes dignity as the foundation of inherent human rights. According to Heorhii MOISEI, dignity is an inherent value of every human being, and the term "dignity" refers to respecting and protecting every individual from all forms of humiliation, abuse, and degradation. [135] Human dignity

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[132] United Nations, "Universal Declaration of Human Rights," United Nations, United Nations, accessed July 26, 2025, https://www.un.org/en/about-us/universal-declaration-of-human-rights.

[133] Yacine Ait Kaci (YAK), "Universal Declaration of Human Rights," United Nations, 2015, 48.

[134] Kaya and Yilmazer, "The Right to Work as a Fundemantal Human Right," 2019, 151.

[135] Yuriy Fedkovych Chernivtsi National University, Chernivtsi and Heorhii Moisei, "Human Dignity as a Fundamental Right of a Person," *European Journal of Law and Public Administration* 5, no. 2 (2018): 29, https://doi.org/10.18662/eljpa/39.

forms part of natural law and serves as the primary source of all human rights. It is important to highlight that lack of a dignified life may prevent individuals from fully exercising other human rights, including the right to work.

Right to work is not only about maintaining high level of income rather, there are three important values behind this matter, including maintaining human dignity, self-respect and personal development. [136] having Employment opportunities not only enable individuals to generate income, fulfill their fundamental necessities, but also to maintain a dignified life. It's important to mention that for many individuals particularly in developing countries, having access to work opportunities grants them to fulfill the daily basic needs of themselves as well as their families. *Heorhii MOISEI* articulates that right to work is more than just having access to financial means(remuneration), in fact it's gives people identity, purpose, social recognition and personal growth. through having access to right to work individual will be acknowledged by society, the individual gets the satisification and sense value though the contribution which they do to their society. More importantly, having access to employment opportunities will provide them the chance to improve and develop their abilities and potentials. that is why, denying people from right to work is not as sample as it looks, it directly harms people's dignity and right to life.[137]

b) **Right to work and personal development:**

Individuals' societal contributions and personal development are intrinsically connected to the right to work, this is mainly because the enjoyment of right to work enables people to advance their capabilities through acquiring new skills and expanding their knowledge and expertise. [138] Employment opportunities expose individuals to diverse activities within their areas of competence, therefore, it does

[136] Anja Eleveld, "Disrespect or Dignity? Experiences of Mandatory Work Participants in the Netherlands from the Perspective of the Right to Work," *Journal of Poverty and Social Justice* 29, no. 2 (2021): 155, https://doi.org/10.1332/175982721X16149598814264.
[137] Yuriy Fedkovych Chernivtsi National University, Chernivtsi and Moisei, "Human Dignity as a Fundamental Right of a Person," 157–58.
[138] Kaya and Yilmazer, "The Right to Work as a Fundemantal Human Right," 2019, 156.

not only enhance their knowledge but it will also enables them to realize their full potential as human being. [139] More importantly, having access to right to work also empowers individuals to contribute to the development and prosperity of their nation and the global community. This demonstrates that the right to work should not be viewed merely as a source of income but also as a means of enhancing knowledge, developing skills, fostering personal growth, and promoting social well-being. [140] In other words, Access to employment opportunities therefore plays a crucial role in enabling individuals to acquire new competencies, strengthen their abilities, and pursue a path toward future prosperity and success.

Right to personal development was first recognized under United Nation's charter, article 55 asserts "*higher standards of living, full employment, and conditions of economic and social progress and development' and `solutions of international economic, social, health and related problems` as well as `universal respect for and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language and religion".* There are three important factors which have been highlighted under this provision, UN will make sure to foster a) higher standards of living, b) full employment c) conditions of economic and social progress and prosperity. Based on this article, right to development in three highlighted aspects have been recognized explicitly.

It's worthed to highlight that, under article 56 all state members Committed to do every joint or individual actions to fulfil article 55 of the charter. Following to that, through *Declaration on the Right to Development* which was articulated by Vienna conference on 1993, countries agreed that right to development is fundamental "*The Right to Development is a universal and inalienable human right*

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[139] Kaya and Yilmazer, "The Right to Work as a Fundemantal Human Right," 2019, 156.
[140] International Labour Organization, "Key Document - ILO Declaration on Fundamental Principles and Rights at Work (1998), as Amended in 2022," International Labour Organization, 1998, https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB%3A62%3A0%3A%3ANO%3A%3AP62_LIST_ENTRIE_ID%3A2453911&utm.

and an integral part of fundamental human rights " [141] this articulates that right to development belongs to every human being, it cannot be taken away. Now the question that raise is that what is development? In fact, right to development includes four main dimensions including a) economic such as having access to job, income and resources. b) Social prosperity (education welfare, equality), c) cultural development and d) political development including participation and freedom. According to *Arjun Sengupta* right to development Is not only about having access to financial opportunities, development is relevant to better life condition, having access to fair opportunities, human dignity and equal benefits for all individuals. Equality, Fairness and Inclusiveness are the three important factors which must be taken in to consideration when it comes to right to development, [142] any program lacking these factors can be harmful for citizens in a society. For instance, depriving a group of people based on their gender or political opinion can jeopardize the life of certain groups in a country.

Its worthed to mention that Priore formulation of right to development by United nation on 1986, *Frankline D. Roosevelt* in one of his speeches in 1944 indicated that freedom without being financially independency does not exist. Additionally, he classified "*employment*" as part of the economic right which falls under personal development. [143] As result of second World War massive number of people were facing poverty and economic hardship which led to creation of UN in 1945. Following the formulation of UN charter, the right to development was formally recognized by the UN. Additionally, the two human rights treaties (International convention of Civil and political rights + International convention on Economic, social, and cultural rights) were finalized. It's important to highlight that ICESCR mainly granted economic right of individuals which employment right falls under this classification. [144]

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[141] Arjun Sengupta, "Realizing the Right to Development," *Development and Change* 31, no. 3 (2000): 555, https://doi.org/10.1111/1467-7660.00167.
[142] Sengupta, "Realizing the Right to Development," 554.
[143] Sengupta, "Realizing the Right to Development," 554.
[144] Sengupta, "Realizing the Right to Development," 555.

3. International Covenant on Economic, Social and Cultural Rights (ICESCR)

The ICESCR as a significant legal instrument focusing on individuals' economic, social, and cultural right was adopted by the United Nations General Assembly on December 16, 1966, and it came in force by January 3, 1976. It mandates all the state parties to uphold, safeguard, and protect all citizens' economic, social, and cultural rights. According to this Convention, all inhabitants irrespective of their gender, sex, ethnicity, or any other differences, should have the right to participate in economic, social, and cultural domains. Article 6.1 of the Covenant explicitly recognizes the right to work for all individuals stipulating that "*the States Parties to the present Covenant acknowledge the right to work, encompassing the right of every individual to pursue a livelihood through work of their own choosing or acceptance, and shall undertake appropriate measures to protect this right*."[145] The highlighted provision does not only grants the right to work for everyone but also articulates that *everyone* must have the opportunity to select the type of work which they are interested in. Additionally, the aforementioned article obliged the parties to take the necessary steps and make sure that right to work is protected for all citizens including women. Based on article 6.2 of the convention, *"to achieve the full realization of this right" the steps to be taken "shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment, under conditions safeguarding fundamental political and economic freedoms to the individual".* For safeguarding and protection of work opportunities, this provision indicates that state must make sure to take the necessary steps such providing technical, vocational guidance, and

[145] United nation, International Covenant on Economic, Social and Cultural Rights, "International Covenant on Economic, Social and Cultural Rights," United nation, December 16, 1966, https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights.

developing of relevant policies which fosters the process of employment for it's citizens. [146]

It's important to highlight that the covenant does not only confer the right to work for all individuals but also establishes the labor norm or working condition to protect the right to work of women against any exploitation. Regarding the establishing of certain labor working conditions, article 7 of the Covenant stipulates that governments must undertake the following actions: a) equal remuneration; this demonstrates that state must make sure that every employee must have access to the same equal and fair wages without any discrimination. b) ensure to provide safe and healthful working environments**;** all staff must enjoy a safe working conditions free of any harm to their health. c) permit rest including holidays, recreation, and acceptable working hours; the employee is to make sure that all its staff can enjoy the same acceptable working duration along with enjoying and resting on holidays. d) offer equitable opportunity for all individuals. And lastly, the responsible company must make sure that everyone (men and women) has access to the same career opportunities without any discrimination. [147] According to this legal instrument, each state member who has ratified the Covenant is legally obligated to implement it within its territory. [148]

Article 2nd of the convention further articulates that all state parties are to apply the provisions of this convention without any discrimination including race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or any other status. As it's clear from the text of the highlighted provision, no state parties are allowed to apply any form of discrimination in any bases including gender. In addition to that, article 3rd of the same document asserts

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[146] COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, "General Comment No. 18 on the Right to Work," 3.
[147] Ni Ketut Sari Adnyani and I. Wayan Landrawan, "Discrimination on the Right to Get Salary for Women Workers in Indonesia from the Ratification of International Conventions Perspective," *Pandecta Research Law Journal* 18, no. 1 (2023): 127, https://doi.org/10.15294/pandecta.v18i1.44376.
[148] Gillian Macnaughton and Diane F. Frey, "DECENT WORK FOR ALL: A HOLISTIC HUMAN RIGHTS APPROACH," *American University International Law Review* Vol. 26 (September 2011): 461, http://ssrn.com/abstract=1614282.

that, all state parties to this convention are to ensure that all of their inhabitants including both male and female are having access to equal economic, Social and Cultural Rights. according to direct text of highlighted provision, *every* citizen including women must enjoy the same economic, social and cultural rights without any discrimination. [149]

G. Women's Right to work under international law:

1. Convention on Elimination of Discrimination Against Women (CEDAW)

Both articles 11 and 13th of CEDAW explicitly recognize right to work as an inalienable human right, indicating that States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women: *(a) The right to work as an inalienable right of all human beings; (b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment; (c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;(d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;(e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;*

(f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction. As it's clear from the text of the provision, it does not only officially acknowledge right to work for women but, it recognizes other benefits such as having equal work opportunities, freedom in

[149] Adnyani and Landrawan, "Discrimination on the Right to Get Salary for Women Workers in Indonesia from the Ratification of International Conventions Perspective," 127.

selection of job or profession, and equal remuneration. More importantly, when it comes to right to work, women are completely free to enjoy the same benefits as men such as social security, safety and other working benefits. [150]

Article 13th also asserts that States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, in particular:
(a) *The right to family benefits*;
(b) *The right to bank loans, mortgages and other forms of financial credit;*
(c) *The right to participate in recreational activities, sports and all aspects of cultural life.* the highlighted provision recognizes the economic right of women and obliged the state parties to uphold the highlighted parts. [151]

Article 1st of the CEDAW(1979) asserts that *"For the purposes of the present Convention, the term 'discrimination against women' shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field*." The text of this provision articulates three significant points: First, all forms of discrimination against women, whether it is intentional or unintentional, are completely prohibited. in other words, all form of acts that might harm women is not allowed, regardless of whether the harm is direct or indirect. Second, women may be explicitly or implicitly disadvantaged through the implementation or enforcement of laws and policies. Under CEDAW, even if a law or policy causes indirect harm to women, it constitutes discrimination and must be prevented. Third, the rights guaranteed under CEDAW apply in both the public and private spheres. This demonstrates that states are not only required to refrain from

[150] Convention on Elimination of all forms of domestic violence against Women, "1981_CEDAW," United nation, 1981, 6, https://www.justice.gov.za/docs/other-docs/1981_CEDAW.pdf.
[151] Convention on Elimination of all forms of domestic violence against Women, "1981_CEDAW," 7.

discrimination within their own functions but also have a positive obligation to make sure that private actors comply and applay these obligations as well. [152]

Additionally, Article 2(e) provides that States Parties shall *"take all appropriate measures to eliminate discrimination against women by any persons, organization or enterprise*." This provision creates a strong positive legal obligation for States to prevent and eliminate discrimination committed by other actors, including institutions, enterprises, organizations, and individuals within society. Meanwhile, Article 2(f) requires States Parties *"to take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women.*" As is clear from the text of this provision, it sets out the measures required to prevent discrimination actions, including reforming discriminatory laws and regulations and addressing harmful customs and practices. In other words, this provision emphasizes structural transformation aimed at eliminating discrimination against women. [153]

In addition to provisions mentioned under CEDAW, The Beijing conference was conducted in 1995, it was the UN Fourth World Conference on Women conducted in China, during this conference governments from all over the world agreed on the Beijing Declaration and Platform for Action, a historic global framework for advancing women's rights and gender equality. Beijing declaration, objective 1.2, explicitly prohibits gender discrimination and obliged the government to make sure to protect women from any discrimination through legislation and constitution provisions. Additionally, the states are to remove and reform any customary norms or practice which raises the discrimination between men and women. for instance, reforming family criminal, labor and commercial laws, ensure courts and justice system are free from gender bias, create accessible legal services for disadvantaged women. To safeguard women, criminal legislation ought to be reformed. Prevent violence against women; any infringement on their

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[152] Rhona K. M. Smith, *Texts and Materials on International Human Rights*, 2. ed (Routledge, 2010), 669.
[153] Smith, *Texts and Materials on International Human Rights*, 670.

rights is a violation of human rights. strengthen institutions through providing gender-sensitive human rights trainings for the judges, police, and public employees. Create procedures for looking into mistreatment of women. Ensuring women have equal access to legal professions, trade unions, and governmental institutions while also guaranteeing their involvement and inclusion. [154]

It's important to highlight that in order to accelerate equality between men and women, Bejing Framework supports affirmative action or "special measures". Under this important principle, states are encouraged to take temporary measures to increase women's participation and correct the imbalance in employment, education and decision-making areas. Based on this document, providing the same opportunity for women and men will not change the outcome because women have been deprived of equal opportunities for a long period of time. therefore, giving the same opportunity at the moment will not help women, although it will stops widening the problem however, the gap never disappears. Thus, it's important to have an affirmative action in place and provide special support for women for a short period of time until they reach to the appropriate level as male. [155] Meanwhile, article 4th of CEDAW asserts that states can take the special measures temporarily just to adopt and balance the process of equality between men and women. [156] thus, based on the highlighted provisions in order bring the positive change and fill the gap of inequality which existed for a long period of time, it's essential to provide further opportunities for women so that the inequality that existed for long period of time disappears.

2. Gender based violence under CEDAW:

According to CEDAW General Recommendation No. 19 (1992), gender-based violence is recognized as a form of discrimination against women. It targets women on the basis of their gender and includes acts that "inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of

[154] Smith, *Texts and Materials on International Human Rights*, 678.
[155] Smith, *Texts and Materials on International Human Rights*, 679.
[156] Smith, *Texts and Materials on International Human Rights*, 683.

liberty," such as domestic violence, sexual assault, forced marriage, and sexual harassment. In fact, violence undermines the enjoyment of all human rights by its victims. when an individual experiences violence, all of her fundamental human rights are adversely affected, consequently it prevent her from exercising her human rights effectively. Therefore, it can be concluded that violence against women is not merely a private or family matter; rather, it is the responsibility of the State to ensure that all women are protected from all forms of gender-based violence, whether in the workplace or at home.

Under the highlighted recommendation, States are required to exercise due diligence by taking appropriate such as measures to prevent violence, investigate allegations, punish perpetrators, and provide remedies, including compensation and protection for victims. one of the significant part of this recommendation is focusing on fair and just working condition articulating that Fair and just working conditions require a safe and secure working environment, free from sexual harassment, with equal employment opportunities, protection from physical and psychological abuse, and safeguards against retaliation when complaints are reported. This demonstrates that access to the right to work alone is not sufficient; the responsibility of States extends beyond merely allowing women to work. Rather, States must take all appropriate measures to ensure that women can exercise their rights without discrimination or gender-based violence in the workplace. In addition, there should be no distinction between men and women regarding access to employment opportunities, including recruitment, promotion, and other aspects of work. It can therefore be concluded that gender-based violence constitutes a violation of human rights in the workplace.[157]

[157] Smith, *Texts and Materials on International Human Rights*, 705.

CHAPTER III

LEGAL ANALYSIS OF AFGHAN WOMEN'S RIGHT TO WORK: THE TALIBAN'S HUMAN RIGHTS OBLIGATIONS AND THE IMPACTS OF DENIAL OF THE RIGHT TO WORK ON WOMEN'S LIFE

This chapter critically examines the legal concepts established under Chapter II and applies them to the current situation of women in Afghanistan. It first assesses the status of Afghan women from a human rights perspective and examines the extent to which their right to work is protected and fulfilled under applicable international human rights law. More importantly, the chapter analysis the legal status and legitimacy of the Taliban regime by examining it through the concept of governmental legitimacy. It further determines whether, and to what extent, the Taliban, as an *De facto authority* (*DFA*) exercising de facto control over Afghanistan, is legally bound to respect and uphold human rights, particularly women's right to work. Finally, the chapter examines the practical consequences of the Taliban's restrictions on women's employment by drawing on empirical evidence collected from women directly affected by these measures and currently residing in Afghanistan. Through this combined legal and empirical analysis, the chapter evaluates not only the normative obligations of the Taliban but also the tangible human rights impacts of their discriminatory policies on Afghan women.

A. Analysis of fulfillment of women's right to work in Afghanistan under International Human rights law

It is important to note that Afghanistan ratified both *International Covenant on Economic, Social and Cultural Rights (ICESCR)* on 24 January 1983 [158] and the Convention on the *Elimination of All Forms of Discrimination Against Women* on

[158] Qazi Zada and Qazi Zada, "The Taliban and Women's Human Rights in Afghanistan," 2024, 1704.

5 March 2003 without making any reservations. [159] As a result, Afghanistan is legally bound to comply with all provisions of the Convention and to take appropriate measures to eliminate discrimination against women in all areas of society. CEDAW establishes a comprehensive legal framework prohibiting all forms of discrimination against women, particularly when it comes to employment opportunities, where it recognizes equal access to employment prospects, equal pay, job security, and safe working conditions for both men and women.[160] CEDAW which is also known as bills of women's right, further imposes clear obligations on States Parties to eradicate gender-based discrimination and promote equality. For instance, Article 2 outlines the general obligation to eliminate discrimination, while Article 3 guarantees the full development and advancement of women. Article 4th allows for temporary special measures to accelerate equality between men and women, and article 5 further requires the elimination of harmful stereotypes and practices. In addition, Articles 7 and 8 ensure women's equal participation in political and public life, while Articles 10 to 16 address specific areas of discrimination, including education, employment, health, legal rights, and marriage and family relations.[161]

Despite of several promises and agreement during the Doha peace talks, Taliban after entering into Afghanistan started applying oppression and misogynistic policies against women,[162] exactly the same policy which they did applied during their previous regime (1996-2001). [163] After seizing power in 2021, they violated all women's rights in particular right to employment. It's important to

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[159] Sebghatullah Qazi Zada and Mohd Ziaolhaq Qazi Zada, "The Taliban and Women's Human Rights in Afghanistan: The Way Forward," *The International Journal of Human Rights* 28, no. 10 (2024): 1702, https://doi.org/10.1080/13642987.2024.2369584.
[160] Qazi Zada and Qazi Zada, "The Taliban and Women's Human Rights in Afghanistan," 2024, 1702.
[161] Qazi Zada and Qazi Zada, "The Taliban and Women's Human Rights in Afghanistan," 2024, 1703.
[162] Vinuri Perera, "Declining Women's Rights and Freedom: Afghan Women at Two Years of Taliban Rule," Japan, December 10, 2023, https://indopacificresearchers.org/wp-content/uploads/2023/12/Declining-Women.pdf?utm.
[163] Jennifer Kristen Lee, "Legal Reform to Advance the Rights of Women in Afghanistan within the Framework of Islam," *Santa Clara Law Review* Volume 49, no. Number 2 (2009): 537, http://digitalcommons.law.scu.edu/lawreview.

highlight that, at the moment Afghanistan is the only country across the world where the all women and girls' rights including right to employment is violated. Due to the band imposed by Taliban in 2021, almost all public servant positions which were once occupied by women, are either removed or replaced by Men in particular by Taliban fighters. Based on several reports published recently by different media including *Amu*, dozens of women who used to have a dignified job and a source of income are now forced to out in streets, begging to fulfill the basic needs of their families. These women are mainly the breadwinners of their families who are not allowed to work anymore; thus, they forced to either send their children to work or use begging as an alternative to survive. And these women are facing humiliation, harassment and various form of violence in the streets[164][165]

It's important to highlight that the current discriminatory policies of Taliban is in direct contradiction with the international laws in particular Universal declaration of human rights (UDHR) which functions as the basis of all human rights law treaties. In addition, the systematic and misogynistic act of Taliban towards women and banning them from their right to work is in complete contradiction with all human rights treaties in particular *ICESCR* and *CEDAW* which are indicating that every individual must enjoy the same opportunities in society regardless of any difference including their social statues, gender, religion and nationality and so on. Furthermore, Afghanistan is a member of international human rights conventions such as international Covenant of Economic, Social and Cultural Rights (ICESCR), CEDAW and so many other conventions which officially recognizes employment as fundamental right for all individuals. [166] However, after resizing power in 2021, Taliban's discriminatory policies directly violated employment right of women and systematically excluded them from

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[164] Milad Sayar, "In Kabul, Some Women Turn to Begging amid Taliban Restrictions," *Amu TV*, March 25, 2026, https://amu.tv/232084/.
[165] Nargis Nehan, "Women Are Begging on the Streets of Kabul," Chatham House, Chatham House – International Affairs Think Tank, July 28, 2023, https://www.chathamhouse.org/publications/the-world-today/2023-08/nargis-nehan-women-are-begging-streets-kabul.
[166] Lee, "Legal Reform to Advance the Rights of Women in Afghanistan within the Framework of Islam," 531–33.

working sphere. Afghanistan as a member state who ratified both ICESCR and CEDAW conventions, under both international treaties and customary law are to adhere human rights, in particular they are to stop their discriminatory policies towards women and granting them back their right to work. [167]

The women's right situation in Afghanistan as signatory of ICSECR and CEDAW is very deteriorating, it reflects a clear and systematic violation of all provisions of all human rights conventions. Since Taliban returned to power in August 2021, they have progressively excluded women from workforce sphere, particularly within the public sector. Female civil servants were initially prohibited from returning to their positions, and many of these roles were subsequently filled by male employees.[168] There are only two limited exceptions for women to work, they can either work as primary school teachers (teach up to grade six) or then work as female doctors and nurses under health sector, who are only permitted to treat female patients. These restrictions were further expanded on 24 December 2022, when Taliban banned women from working in both national and international non-governmental organizations (NGOs).[169] In 2023, this prohibition was even extended to female who were working in the United Nations organizations, as confirmed by *Catherine Russell*, *Executive Director of UNICEF.* As result of imposed limitation, women have been completely excluded from a wide range of humanitarian and development activities in UN organizations across the country.

The employment ban happens at a time when Afghanistan is facing a severe humanitarian crisis. According to UNICEF, more than 28 million people are in need of humanitarian assistance. The exclusion of women from working in national and international organizations not only violates their fundamental right to employment

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[167] Qazi Zada and Qazi Zada, "The Taliban and Women's Human Rights in Afghanistan," 2024, 1702.
[168] Ahad, "Send Us a Man to Do Your Job so We Can Sack You, Taliban Tell Female Officials."
[169] UN women, "Gender Alert No. 3: Out of Jobs, into Poverty: The Impact of the Ban on Afghan Women Working in NGOs," UN Women – Headquarters, August 29, 2025, https://www.unwomen.org/en/digital-library/publications/2023/01/gender-alert-no-3-out-of-jobs-into-poverty-the-impact-of-the-ban-on-afghan-women-working-in-ngos.

but also undermines the delivery of humanitarian aid, particularly in sectors where female staff are essential to reach women and children. Consequently, the discriminatory policies further exacerbate poverty, food insecurity, and deteriorate overall humanitarian situation in the country. [170]

The prohibition of women's employment did not stopped at this stage; Taliban further expanded the ban to private sector, including the closure of beauty salons where thousands of women were employed in. Despite these restrictions, some salons continued to operate underground. However, in 2023, through another decree, the Taliban issued a formal warning ordering women to shut down their beauty salons or face arrest. Consequently, by August 2023, all beauty salons were forcibly closed. As a result, approximately 12,000 businesses were shut down, leading to the loss of more than 50,000 jobs which were held by female beauticians. [171] Additionally, the Taliban instructed religious leaders and local elders to monitor closed beauty salons and report any attempts to reopen them to the "Vice and Virtue" authorities. [172] Furthermore, under the restrictive regulations imposed by the *Vice and Virtue authorities* particularly those banning women's voices from being heard in public and prohibiting women from traveling without a male mahram while using public transportation [173], which female journalists have been severely affected. As a result, 8 out of 10 female journalists have been forced to leave their

[170] UNICEF, "Taliban's Decision to Ban Afghan Women from Working with the United Nations Will Cost Children's Lives," 05 April 2023, April 5, 2023, https://www.unicef.org/press-releases/talibans-decision-ban-afghan-women-working-united-nations-will-cost-childrens-lives.
[171] Zahra Joya and Hania Forotan, "Taliban Launch Crackdown on Afghanistan's Secret Beauty Salons," Global Development, *The Guardian*, August 30, 2025, https://www.theguardian.com/global-development/2025/aug/30/taliban-crackdown-afghanistan-secret-beauty-salons-women-gender-apartheid.
[172] Joya and Forotan, "Taliban Launch Crackdown on Afghanistan's Secret Beauty Salons."
[173] Amnesty International, "Human Rights in Afghanistan," *Amnesty International*, 2024, https://www.amnesty.org/en/location/asia-and-the-pacific/south-asia/afghanistan/report-afghanistan/.

jobs. Those who continue to work face serious risks, including detention and prosecution before Taliban courts. [174]

1. Women's Situation under Taliban regime

Following the Taliban's ascendance to power in Afghanistan, they imposed numerous restrictions in particular regarding the women rights. The collapse of democratic government along with putting severe restrictions on women's led to a decline of job in the country, as numerous foreign enterprises ceased operations and substantial international aid was retracted. Consequently, huge number of individuals were rendered jobless and unemployed.[175] consequently, the poverty rate escalated; as in 2022, the United Nations Development Program (UNDP) indicated that 97% of the Afghan people had sunk below the poverty threshold. [176]

Since regaining power, Taliban have employed several strategies, both internally and externally to limit and restrict women's rights in society. At the national level, various restrictions are imposed on women. the UN indicated that since seizing power, Taliban have issued over 470 directives, 79 of them contributing to the infringement of women's and girls' fundamental human rights. [177]As a result of the imposed restrictions, Afghan women are being prohibited from having access to formal employment right in the society.[178] Furthermore, the Taliban has significantly undermined women's legal safeguards and key institutions by rejecting and nullifying the 2004 Constitution,[179] which granted equal rights for

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[174] Reporters Without Borders (RSF), "Afghanistan | RSF," Reporters Without Borders (RSF), March 13, 2026, https://rsf.org/en/country/afghanistan.
[175] Ghani, "THE IMPACT OF TALIBAN RULE ON AFGHANISTAN'S ECONOMY," 333.
[176] Ghani, "THE IMPACT OF TALIBAN RULE ON AFGHANISTAN'S ECONOMY," 334.
[177] Mohseni, "UN."
[178] Human right watch, "World Report 2025: Afghanistan | Human Rights Watch," World Report, September 25, 2024, https://www.hrw.org/world-report/2025/country-chapters/afghanistan.
[179] AuthorTaylor, Ansley Marie, "The Relationship Between Women's Education, Women's Employment, Gender Development, and Gender Inequality A Case Study of Afghanistan," (University of Oslo, 2022), https://scholar.google.com/scholar?as_vis=0&q=The+Relationship+Between++Women%E2%80%99s+Education,+Women%E2%80%99s++Employment,+Gender++Developmen

both men and women including right to employment. Additionally, United Nations Special Rapporteur for Afghanistan Richard Bennett on his investigations indicates that women and girls endure systemic and pervasive discrimination in Afghanistan. He stated that *"the progressive elimination of women from public life is particularly alarming*." [180] It's important to mention that, in the external level Taliban By prohibiting Bennet from visiting Afghanistan and writing on Afghan women's human rights condition under Taliban regime tried to obscure the extensive human rights violations and the oppressive policies they impose on Afghan women.

Afghanistan has turned into an extremely patriarchal society since the Taliban's resurgence, and at the moment, it's the only country in the earth where women are denied of their fundamental human rights including right to employment. The 2023 Global Gender Gap Report, released annually by the World Economic Forum (*WEF*) ranked Afghanistan as a last country among the other nations. This illustrates that women are facing considerable gender inequality in different dimensions including economic engagement, educational achievement, health, and political involvement.[181] Due to stringent limitations and human rights violations, women are predominantly deprived from accessing to formal employment opportunities, with limited exceptions: at the moment women can only serve as teachers for girls under age of 12 and as doctors or midwives in hospitals. In March 2023, the International Labor Organization reported a 25% fall in female employment and a 7% decline in male employment since Taliban came in to power. [182]

t,+and+Gender++Inequality++A+Case+Study+of+Afghanistan,+2000-2019&hl=en&as_sdt=2007.

[180] Ruters, "Taliban Bars UN Human Rights Special Rapporteur from Afghanistan | Reuters," Ruters, August 22, 2024, https://www.reuters.com/world/asia-pacific/taliban-bars-un-human-rights-special-rapporteur-afghanistan-tolo-news-2024-08-21/?utm.

[181] Kabul Now, "Afghanistan Ranks Lowest in Global Gender Gap Index | KabulNow," Kabul Now, June 22, 2023, https://kabulnow.com/2023/06/afghanistan-ranks-lowest-in-global-gender-gap-index/.

[182] International Labour Organization, "Women Bear Brunt of Afghanistan Job Losses | International Labour Organization," International Labour Organization, March 7, 2023, https://www.ilo.org/resource/news/women-bear-brunt-afghanistan-job-losses.

Upon seizing power, Taliban Structurally commenced the eradication of Afghan women from society. [183]they have systematically band women from education, freedom of movement, freedom of expressions, dress code and other essential human rights. Taliban forced women to wear a particular dress which is called "*Burqa*" with a mesh screen loss tent like garment. It's worthed to note that, the rate of Gender based violence has extremely increased, Taliban arrested the women who does not comply the compulsory Hijab, based on Amnesty International, Taliban established a campaign against non-compliance of Hijab, they had detente and arrested thousands of Afghan women and girls which in many cases led to the torture, dehumanizing behavior and sexual violence including rape.[184]. More importantly, the women who resisted were prohibited from utilizing public transportation and taxis. [185] Based on the reports from January 2022 to June 2024, 840 incidents of gender-based violence against women and girls, including 332 killings were registered. [186]

The violation of women's rights encompasses other concerns; specific restrictions on women's freedom of movement impede women and girls from Traveling outside their homes without a male guardian (*Mahram*) is particularly prohibited widows and women who do not have a male guardian to accompany them outside the home, even to healthcare services. [187]

Taliban does not only limited the presence of the women in the society but dismantled the relevant institutions and departments which aimed to support and empower women. as an a example, In September 2021, Taliban abolished the Ministry of Women and Independent Human Rights Commission, both led by

[183] AMNESTY INTERNATIONAL, "Death in Slow Motion: Women and Girls Under Taliban Rule - Amnesty International."
[184] Left, "Women in Afghanistan Have Not Stopped Striving for Their Rights, and Neither Should We."
[185] Shoib Tanha Shokran and Shabnam von Hein, "Afghanistan."
[186] Amnesty International, "Human Rights in Afghanistan."
[187] Resta Lember, "DEMOCRACY PROMOTION IN ISLAM MAJORITY COUNTRY: A CASE STUDY OF AFGHANISTAN," 49.

women and focused on protecting and fostering human rights in particular advocating for women's rights.[188]

B. Responsibility of Taliban as *De facto authority* towards upholding women's right to work

Regarding the protection of human rights, it is important to mention that international human rights law primarily gives the responsibility of respecting, protecting, and fulfilling human rights upon states. As discussed under Chapter II, it does not expressly impose general human rights obligations on *non-state actors(De facto authority*) who came in to power through illegitimate means, however, the contemporary approach has gradually departed from the traditional state-centric framework. This development suggests that the absence of an explicit treaty obligation does not necessarily mean that *De facto authority* (*DFA*) are free from all human rights responsibilities. Rather, the concepts of effective/ territorial control**,** general human rights responsibilities, and international practice**,** which are explained under Chapter II indicates that *De facto authority* (*DFA*) are not free of any responsibility. Now the main question this Part will answer is that whether Taliban fulfills the criteria identified under effective control or not.? there are three main indicators identified by the various scholars articulating that whether *De facto authority* (*DFA*) is capable of upholding human rights or not. These indicators consist of effective territorial control, the presence of a civilian population, and the capacity to use or threaten the use of force towards the citizens. [189] In case these elements are fulfilled, the *De facto authority* (*DFA*) may bear obligations to uphold human rights within the territory under their control.

In the case of Afghanistan, the author argues that the Taliban fulfill these criteria. Following the collapse of the Islamic republic of Afghanistan in August 2021, the Taliban seized political power and since then they have exercised

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[188] Resta Lember, "DEMOCRACY PROMOTION IN ISLAM MAJORITY COUNTRY: A CASE STUDY OF AFGHANISTAN," 49.
[189] Teiner, "Rebel Governance," 749.

effective control over the territory of Afghanistan.[190] More importantly, they regulate different decrees in almost every aspect of public life, including freedom of movement, internal security, taxation, immigration, and the administration of public institutions. At the moment, they possess the authority to adopt and enforce nationwide policies and restrictions. For example, since assuming power in 2021, the Taliban have issued more than 470 decrees that based on UN 79 of them are restricting the rights and freedoms of Afghan women including right to work. [191]This demonstrates that they possess the practical authority and capacity to formulate, implement, and enforce rules throughout the territory under their control.

Furthermore, the Taliban have established their own administrative structure under the name of the *Islamic Emirate of Afghanistan*, headed by the *Amir al-Mu'minin*, who exercises ultimate authority over all aspects of their regime. [192] In reality all decision making lies under of the authority of their *Amir* and there are no any clear, distinct, or separate structures for the institutions they established , However, at least it appears at the surface that they have established several structures, including the Ministry of Interior, the Ministry of Foreign Affairs, the Ministry of Finance, the Ministry of Public Health, Ministry of Education and the Ministry for the Propagation of Virtue and the Prevention of Vice. [193] Although the extent to which these institutions function in accordance with the principles of good governance Is under a big question, and considering the fact that decision-making authority remains highly centralized in the hands of the *Hibatullah Akhundzada*, who retains ultimate control over the administration and governance of

[190] Pavlopoulos, "Between Legitimacy and Control."
[191] Mohseni, "UN."
[192] admin, "Glossary," *Afghanistan Justice Archive*, n.d., accessed July 29, 2026, https://afghanistanjustice.org/glossary/.
[193] United Nation security council, "Letter Dated 3 July 2024 from the Chair of the Security Council Committee Established Pursuant to Resolution 1988 (2011) Addressed to the President of the Security Council," July 8, 2024, 8–9, https://digitallibrary.un.org/record/4053880/files/S_2024_499-EN.pdf?utm.

Afghanistan. [194] [195]still the existence and functioning of these institutions further demonstrate that the Taliban have the power of imposing rules and regulations.

In addition, the United Nations Special Rapporteur on the situation of human rights in Afghanistan, Richard Bennett, stated in his report to the Fifty-first Session of the Human Rights Council that the *De facto authority* (Taliban) exercise effective control over Afghanistan. Accordingly, he emphasized that the Taliban are responsible for complying with the obligations under international human rights and humanitarian treaties to which Afghanistan is a party, irrespective of whether they have been formally recognized as the legitimate government of the state. [196] This position further reinforces the contemporary view that the exercise of effective territorial control gives rise to corresponding human rights responsibilities. Furthermore, it is important to note that Afghanistan is a State Party to almost all major international human rights treaties, including the International Covenant on Economic, Social and Cultural Rights (ICESCR), which was ratified on 24 January 1983, and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), ratified without reservation on 5 March 2003. [197]As these treaties remain binding on the State of Afghanistan regardless of changes in government, the de facto authorities exercising control over the country are obliged to respect and implement the obligations arising under these instruments.

Based on the foregoing analysis, the Taliban fulfills the principal indicators identified under Chapter II and as a *De facto authority* (*DFA*), they bears the human

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[194] Dr M. Sheharyar Khan et al., "THE TALIBAN REGIME: CHALLENGES OF GOVERNANCE AND LEGITIMACY," *International Journal of Contemporary Issues in Social Sciences* Vplume 3, no. Issue 1 (2024): 1901.
[195] Freedom House, "Afghanistan: Freedom in the World 2024 Country Report," Freedom House, Freedom House, 2023, https://freedomhouse.org/country/afghanistan/freedom-world/2024.
[196] United Nations, human rights office of the high commissioner, "A/HRC/51/6: Situation of Human Rights in Afghanistan - Report of the Special Rapporteur on the Situation of Human Rights in Afghanistan," OHCHR, September 9, 2022, https://www.ohchr.org/en/documents/country-reports/ahrc516-situation-human-rights-afghanistan-report-special-rapporteur.
[197] Qazi Zada and Qazi Zada, "The Taliban and Women's Human Rights in Afghanistan," 2024, 1704.

rights responsibilities. Their effective territorial control, governance over a permanent civilian population, and exercise of power and control demonstrate that they possess the capacity upon which the contemporary approach to non-state actor responsibility is founded.

In addition, Under the international human rights law there are certain provisions indicating that the safeguarding and upholding of human rights are a collective obligation rather being a particular job of a state. For instance, as explained with detail under chapter II, The Universal Declaration of Human Rights (UDHR) of 1948 acknowledges that each person and every societal entity plays a part in respecting, enhancing of essential human rights. Consequently, considering the fact Taliban regime facing lack of official recognition by the UN and other states, still obliged to uphold fundamental human rights in accordance with the overarching principles of international human rights law. Moreover, global practices consistently shows that non state actors were obliged to uphold human rights. The United Nations Human Rights Council has persistently engaged with armed non-state entities / *De facto authorities* via its Commissions of Inquiry, Fact-Finding Missions, and Special Rapporteurs. In contexts like Myanmar, [198] Syria[199] and Afghanistan these mechanisms have consistently called upon armed groups/ *De facto authority* to prevent human rights violations, safeguard civilians, and adhere to international human rights norms. In the same manner, the United Nations Security Council, particularly through its Monitoring and Reporting Mechanism (MRM) on Children and Armed Conflict, has explicitly called out and even penalized armed non-state entities who are accountable for the grave human rights violations. This practice demonstrates that global institutions are progressively acknowledging *non-state entities* (*De facto authority*) as responsible under

[198] Human Rights Council, "Sexual and Gender-Based Violence in Myanmar and the Gendered Impact of Its Ethnic Conflicts," 58,59,60,61.
[199] United Nations General Assembly, "Independent International Commission of Inquiry on the Syrian Arab Republic A_HRC_30_48-EN," 21-22–23.

international human rights law, especially when they have effective territorial and authority over a state.

According to the examination detailed in this chapter, the author comes to the conclusion that the Taliban meet the primary standards outlined under Chapter II and they are legally obliged to uphold human rights as *De facto authority.* Thus, they are obliged to immediately stop women's discrimination policies and they must allow Afghan women to exercise all their human rights in particular right to work.

1. Legal status/ Legitimacy of Taliban regime

As result of singing Doha Agreement with the US, Taliban seized power in Afghanistan through illegitimate means. According to government legitimacy theory, every government must come into power through lawful and legitimacy means. Meaning that the transition of power must take place with the constitutional legal basis. [200] According to the Afghanistan's 2004 Constitution, the government and political authority must get the power through a democratic election where citizens freely select their representatives, as reflected in several provisions of aforementioned document, including article 4 which talks about the national sovereignty articulating that "*National sovereignty in Afghanistan belongs to the nation, which exercises it directly or through its representatives*." This demonstrates the governmental authority must drives from Afghan people rather than seizing power through signing an agreement with a foreign state, military conquest or force.[201]

In addition to that, article 61 of the same document specifically talks about the election of the President. Indicating that *"The President shall be elected by receiving more than fifty percent of the votes cast by the voters through free,*

[200] D'Aspremont, "LEGITIMACY OF GOVERNMENTS IN THE AGE OF DEMOCRACY," 901.
[201] CONSTITUTE, "Afghanistan 2004 Constitution - Constitute," accessed July 29, 2026, https://www.constituteproject.org/constitution/Afghanistan_2004.

general, secret, and direct voting." [202] this provision demonstrates that head of the government must be directly elected by the Afghan people rather than being selected form elsewhere carrying the highest authority. Therefore, it can be concluded that under 2004 constitution of Afghanistan, government legitimacy can be only achieved through the decisions and willingness of people in particular election. However, in August 2021, after signing an agreement and withdrawal of United state's Soldiers from Afghanistan, Taliban seized power without holding elections. [203]

The Taliban regime lacks both legitimacy of origin and legitimacy of exercise. As discussed in the previous section, the origin and basis of the Taliban regime is an agreement rather than a national election conducted in accordance with the former Constitution of Afghanistan. Furthermore, legitimacy of exercise concerns the manner in which governmental power is exercised, particularly it focuses whether a government respects the rule of law and fundamental political freedoms or not. While in the case of Afghanistan, since seizing power in Afghanistan, the Taliban have systematically violated international human rights law, particularly the right to work of Afghan women. According to UN data, of the 470 decrees issued by the Taliban, 79 of them restrict the fundamental rights of women and girls. Therefore, considering the waste and systematic violation of women's right by Taliban, this clearly demonstrates Taliban regime does not have the legitimacy of exercise. [204]

In addition to that, international recognition plays an important role in this theory. Widespread formal recognition by other states demonstrates that a government is capable of representing its state. [205] However, in the case of Afghanistan, after five years of ruling, the Taliban regime has not been formally

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[202] CONSTITUTE, "Afghanistan 2004 Constitution - Constitute."
[203] Qazi Zada and Qazi Zada, "The Taliban and Women's Human Rights in Afghanistan," 2024, 1696.
[204] Mohseni, "UN."
[205] D'Aspremont, "LEGITIMACY OF GOVERNMENTS IN THE AGE OF DEMOCRACY," 901.

recognized by neither United Nations or by any other state except Russia. On 3 July 2025, the Russian Foreign Minister announced that Russia had officially recognized the Taliban as the government of Afghanistan. [206] It is worthed to mention that, despite the lack of formal recognition from most of the countries around the world, some states, such as Pakistan, [207] China, [208] the United Arab Emirates (UAE), and Uzbekistan, have established diplomatic engagement with the Taliban and accepted Taliban-appointed diplomats within their territories. [209] Consequently, it can be concluded that Taliban regime is not a legitimate government under "legitimacy theory". However, the absence of legitimacy does not grant the Taliban the freedom to violate human rights, particularly women's right to work. As it will be discussed under Part B, based certain international principals, as *De facto authority*, they are nevertheless bear the obligations to respect and uphold fundamental human rights.

2. State Continuity principle and Human Rights Obligations

Despite the fact that Taliban's regime does not fulfill the legitimacy indicators under legitimacy theory, as well as this regime has not been internationally recognized by United nation or other states except Russia. Yet, their exercise of de facto governmental authority does not extinguish Afghanistan's pre-existing international legal obligations. The principle of State continuity provides an important legal basis for maintaining such obligations, particularly in relation to

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[206] Mark Trevelyan and Mark Trevelyan, "Russia Becomes First Country to Recognise Taliban Government of Afghanistan," Asia Pacific, *Reuters*, July 4, 2025, https://www.reuters.com/world/asia-pacific/russia-becomes-first-country-recognise-taliban-government-afghanistan-2025-07-03/.

[207] AP News, "Pakistan Announces It Will Send an Ambassador to Afghanistan to Upgrade Diplomatic Ties | AP News," AP News, May 31, 2025, https://apnews.com/article/pakistan-sending-ambassador-afghanistan-afghan-taliban-f232ebb219524d80b530c0ad70b5df31.

[208] Ruchi Kumar, "Why Has China Recognised Taliban's Envoy to Beijing? | Taliban News | Al Jazeera," Al Jazeera, February 14, 2024, https://www.aljazeera.com/news/2024/2/14/is-chinas-recognition-of-afghanistan-envoy-a-diplomatic-win-for-taliban?utm.

[209] Claire Mills, et al., "Recent Developments in Afghanistan," House of Commons Library, March 18, 2025, 9, https://doi.org/https://researchbriefings.files.parliament.uk/documents/CBP-10215/CBP-10215.pdf?utm.

violations of human rights, in particular women's right to employment. [210] Under this principle, a State retains its international legal personality despite significant internal changes, such as changes in the government, changes in political regime, constitutional structure, or the effective exercise of governmental authority.[211] As *Devaney* explains, the principle of State continuity distinguishes a change in government from the extinction or replacement of the State itself. Therefore, changes in the government structure does not Merely change the state. [212]

The same reasoning is applicable to Afghanistan following the Taliban's return to power in August 2021. [213] Prior to 2021, Afghanistan's international affairs used to be done by the Islamic Republic of Afghanistan; following the Taliban's takeover, governmental authority came under the control of the Islamic Emirate of Afghanistan on a de facto basis. Nevertheless, the change in governing authority did not result in the creation of a new Afghan State or extinguish Afghanistan's existing international legal personality. The relevant legal distinction, therefore, is not between the Islamic Republic and the Islamic Emirate as two different States, but between successive governing authorities exercising power over the same continuing State. [214]

Consequently, the Taliban cannot avoid Afghanistan's pre-existing international human-rights obligations merely by virtue of having replaced the previous government or by rejecting the constitutional and political order of the Islamic Republic. The obligations were undertaken by Afghanistan as a State, rather than by the particular government that happened to exercise governmental authority at

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[210] Yejoon Rim, "State Continuity in the Absence of Government: The Underlying Rationale in International Law," *European Journal of International Law* 32, no. 2 (2021): 491–94, https://doi.org/10.1093/ejil/chab036.
[211] James Gerard Devaney, "Making Sense of Transcendental Nonsense: A Functional Reframing of the Law of State Succession," *Nordic Journal of International Law* (UK) 94, no. 2 (2025): 11, https://doi.org/10.1163/15718107-bja10096.
[212] Devaney, "Making Sense of Transcendental Nonsense," 10.
[213] United nation, "HUMAN RIGHTS IN AFGHANISTAN: 15 AUGUST 2021 – 15 JUNE 2022 | United Nations in Afghanistan," July 20, 2022, https://afghanistan.un.org/en/191313-human-rights-afghanistan-15-august-2021-%E2%80%93-15-june-2022.
[214] Rim, "State Continuity in the Absence of Government," 490.

the time. Accordingly, where Afghanistan remains the same international legal person, its existing international obligations continue to bind the State, and the authorities exercising de facto governmental power remain responsible for conduct attributable to that State. [215] This provides a particularly significant legal basis for examining the Taliban's restrictions on women's right to work: the change of government must not create a legal vacuum in which Afghanistan's international human-rights obligations cease to apply.[216]

The experience of the Russian Federation following the dissolution of the Soviet Union illustrates this principle. Following the dissolution of the USSR in 1991, Russia was treated in international practice as the continuing State of the Soviet Union rather than merely as one of several newly created successor States. [217] This continuity was reflected particularly in Russia's continuation of the USSR's position within the United Nations and its permanent seat on the Security Council, as well as in the continuation of important international rights and obligations. The example demonstrates that substantial political, constitutional and territorial transformation does not necessarily result in the extinction of a State's international legal personality. [218] The same principle is highly relevant to Afghanistan following the Taliban's return to power. Before to the Taliban's takeover, Afghanistan's international affairs were done by the Islamic Republic of Afghanistan. While, following the takeover, the Taliban established the Islamic Emirate of Afghanistan and exercised de facto governmental control over the territory. [219] Nevertheless, this change in governing authority did not create a new Afghan State. Rather, it

[215] UN Office of the High Commissioner for Human Rights, "Statement by United Nations Human Rights Experts; Women's Full Participation in Afghanistan's Public and Political Life as a Guarantee of Their Fundamental Human Rights," Https://Www.Ohchr.Org/EN/NewsEvents/Pages/DisplayNews.Aspx?NewsID=27466&LangID=E, September 15, 2021, Afghanistan, https://www.ecoi.net/en/document/2060666.html?utm.
[216] Rim, "State Continuity in the Absence of Government," 491.
[217] Devaney, "Making Sense of Transcendental Nonsense," 10.
[218] Devaney, "Making Sense of Transcendental Nonsense," 10.
[219] United nation, "HUMAN RIGHTS IN AFGHANISTAN."

constituted a fundamental change in the governmental authority exercising power over a continuing State. [220]

The second important issue is that, human rights belong to people, therefore, under continuity principle, the absence of an effective government may make the enforcement of human rights more difficult, However, it does not erase the rights themselves or the State's responsibilities towards international obligations. [221] Accordingly, the Taliban cannot legitimately argue that Afghanistan's existing human-rights obligations belonged exclusively to the former Islamic Republic and therefore ceased to apply after the Taliban assumed power. It's important to mention that people play significant role under state continuity theory Based *Yejoon Rim* the government may collapse and even disappears while, the people will remain. Therefore, their protection is one of the essential elements which must be take into consideration. [222] In addition to that, the Islamic Republic was the governmental authority representing Afghanistan when the relevant treaties were concluded; it was not a separate international legal person from Afghanistan itself. The treaties were therefore undertaken by Afghanistan as a State, and the subsequent replacement of its government does not, merely by virtue of that change, extinguish Afghanistan's obligations. [223] More importantly based on the United nation's experts statement "*Despite the drastic changes unfolding in Afghanistan, the State continues to bear a legal obligation under international human rights law to guarantee the human rights of women."* this clearly indicates that Taliban's regime as de facto are obliged to uphold human rights in particular women's right to work.[224]

It's important to mention that Afghanistan is a party to several major international human-rights treaties relevant to women's rights and the right to work

[220] Rim, "State Continuity in the Absence of Government," 485.
[221] Rim, "State Continuity in the Absence of Government," 485.
[222] Rim, "State Continuity in the Absence of Government," 485.
[223] Rim, "State Continuity in the Absence of Government," 491–94.
[224] Rights, "Statement by United Nations Human Rights Experts; Women's Full Participation in Afghanistan's Public and Political Life as a Guarantee of Their Fundamental Human Rights."

such as International Covenant on Economic, Social and Cultural Rights (ICESCR) which was ratified on 24 January 1983. [225] Afghanistan also signed the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) on 14 August 1980 and ratified it on 5 March 2003. [226] These commitments were undertaken by Afghanistan as a State. The fact that the government representing Afghanistan at the time was the Islamic Republic, or that Afghanistan is now governed de facto by the Taliban, [227] does not transform those State obligations into obligations that belong only to the former government. Therefore, the Taliban's assumption of de facto governmental power cannot, by itself, provide a legal basis for disregarding Afghanistan's pre-existing international human-rights obligations. Based on *Devaney* the human right treaties responsibility will transfer automatically to the new regime. [228] This is mainly because, the people and state remain the same; Consequently, Afghanistan's obligations under treaties such as the ICESCR and CEDAW remain the same.

This is particularly important because the right to work is not simply a policy preference of a particular Afghan government, rather It is protected within the international human-rights framework to which Afghanistan has committed itself. The legal question is not whether the Taliban themselves originally signed the relevant treaties. Rather, the question is whether Afghanistan, as the continuing State party, is complying with the international obligations it previously undertook. [229]

The principle of State continuity therefore, provides a crucial bridge between political change and continuing human-rights responsibility. A government may change; a constitutional order may be replaced; and the political ideology of the

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[225] Qazi Zada and Qazi Zada, "The Taliban and Women's Human Rights in Afghanistan," 2024, 1704.
[226] Qazi Zada and Qazi Zada, "The Taliban and Women's Human Rights in Afghanistan," 2024, 1704.
[227] United nation, "HUMAN RIGHTS IN AFGHANISTAN."
[228] Devaney, "Making Sense of Transcendental Nonsense," 27.
[229] Rights, "Statement by United Nations Human Rights Experts; Women's Full Participation in Afghanistan's Public and Political Life as a Guarantee of Their Fundamental Human Rights."

government may be fundamentally transformed. Yet none of these changes, by themselves, creates a new international legal person or releases the State from its existing human-rights obligations. [230] In the Afghan context, this means that the Taliban's replacement of the Islamic Republic cannot be treated as a separate legal personality towards Afghanistan's international human-rights commitments. Thus, It can be concluded that under the state continuity principle, Taliban regime is obliged to uphold human rights in particular women's right to work. [231]

[230] Rim, "State Continuity in the Absence of Government," 485.
[231] Rights, "Statement by United Nations Human Rights Experts; Women's Full Participation in Afghanistan's Public and Political Life as a Guarantee of Their Fundamental Human Rights."

C. The impacts of violations of right to work on Afghan women lives

Since the political changes in Afghanistan, restrictions on women's participation in the workforce have reshaped family economies and social roles of women across urban and rural areas. Social standing may shift as once-active professionals find themselves excluded from public life, with consequences that ripple into intra-household dynamics and community participation. On top of that, Lossing employment opportunity is far beyond losing an income; it can affect women's dignity and identity, constrain mobility, reduce access to social networks, and heighten stress and anxiety within households. The current research explores the deteriorating impacts of banning women from working in three aspects psychological, economic, and social. Due to financial and time constraints, the current research only focuses on western part of Afghanistan (Herat, Ghor, Badghis) provinces.

In order to identify the impacts of employment band on Afghan women's daily life, an online and ananyms survey was conducted in the three targeted provinces. The survey was completed by 80 effected women (32 individual in Ghor, 27 in Herat and 21 in Badghis) provinces of Afghanistan.

The findings of this survey demonstrate that banning Afghan women from working has not only impacted their economic aspect but it deteriorated their overall well-being conditions such as social and psychological. the data reflects that Prior to the ban, respondents were actively engaged in diverse range of professional roles; including universities teachers, working as lawyers, engineers, doctors, working in government sectors, International and national non-governmental organizations. However, after collapse of the republic government of Afghanistan and following the discriminatory ban imposed by Taliban regime, a dramatic shift is observed, where majority of the of respondents 82% reported being confined to household chores including taking care of children and elderly. the findings

signaling a forced transition from professional engagement to unpaid domestic labor and a near-total exclusion from the formal workforce.

The findings of this survey highlights that the economic exclusion has not only weakened social structures and interpersonal strain but the social consequences further compound these challenges, as majority of respondents **77%** indicated that the level of domestic violence has increased within their families. On top of that, the findings further asserts that the impacted families are resorting high-risk strategies to survive, using harmful coping mechanisms such as child labor, marrying girls at early ages and sending boys to neighboring countries to work. consequently, it's important to note that these coping mechanisms has a long-term negative impact on children and society as a whole.

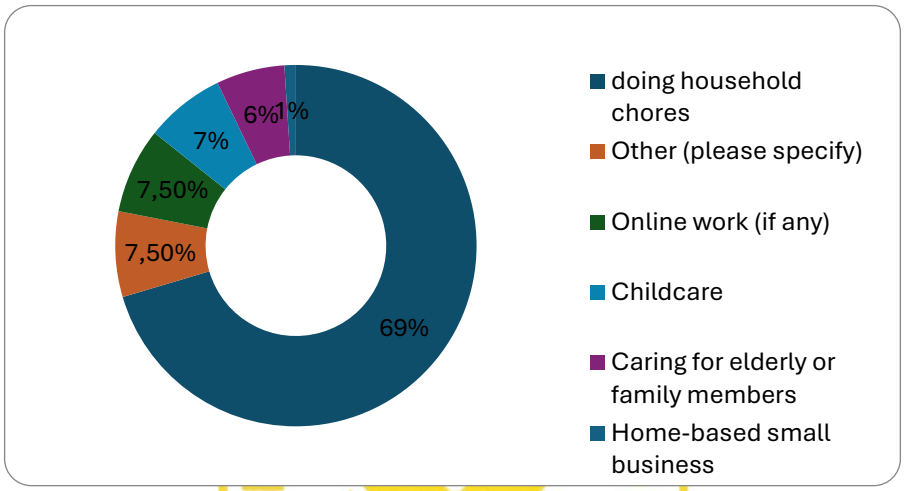
1. **Psychological and Social impacts**

The findings of this Survey demonstrates that due to ban imposed on right to employment, women have been completely excluded from workforce. This has led women to experience severe psychological and social consequences. Based on the findings all respondents selected either strongly agree or agree options when they were asked about the impacts of employment ban on their mental health. All of the respondents (100%) indicated that they experience different types of mental health issues such as depression, anxiety and isolation after being band from working. In addition (100%) of responded indicated that they are enable to focus on their daily tasks and have sleep disturbances. On top of them, 96% of the respondent said that they feel they lost their self-confidence, and 100% of women said that they feel they became invisible in society. The consistency of these responses shows a widespread of mental health issues among women in three target provinces of Afghanistan.

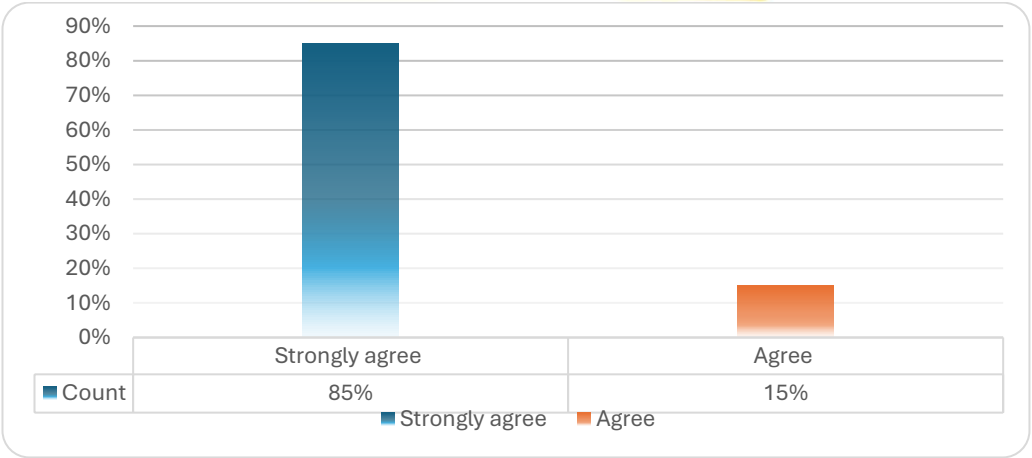
In response to the question about their *current occupation,* the majority of participants approximately (82%) answered that they are busy with only doing the *household chores*, including Child *care* and *caring for elderly or family members* at home. While, *online work* and *other options* are accounted same proportion only 7.50% respectively. It's important to highlight that *Home-based small business* recorded the lowest proportion around 1% only, highlighting that there are only few

respondent who have opportunity to work either online or contributing in small business. The systematic exclusion of women from workforce and society has limited the ability of women into home chores.

What is your current occupation?

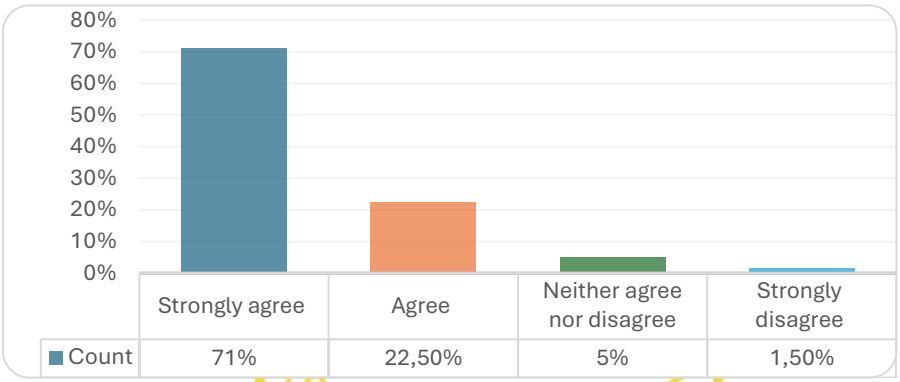


All respondents (100%) agreed that losing job affected their ability to focus on daily work at home, with 85% answering "*Strongly Agree*" and 15% indicating "*Agree*. One of the participants indicated that *"Yes, I don't have enough sleep at night and I use sleeping pills"*.

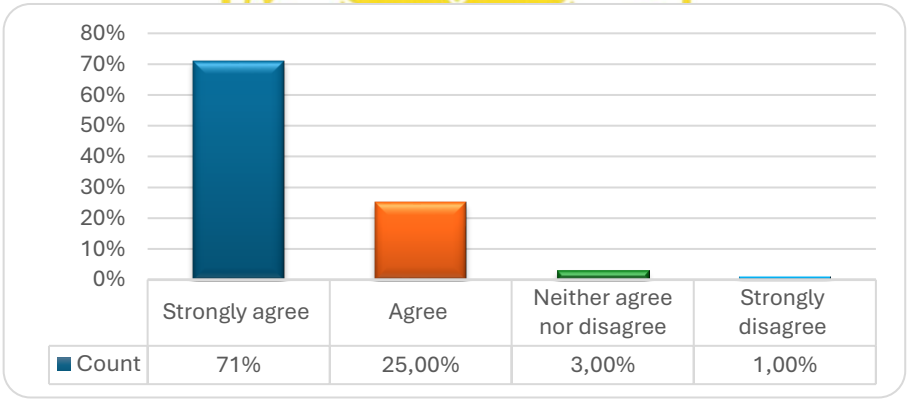


93.5% of respondents indicated that they cannot sleep well during the night due to the level of stress they are experiencing after losing jobs, with 71% answered

"Strongly Agree" and 22.50% "Agree." Meanwhile, 5% of respondents selected "Neither Agree nor Disagree," option and only 1.50% selected "Strongly Disagree." This finding indicates that, the vast majority of respondents are experiencing sleep issues as a result of being excluded from workforce.



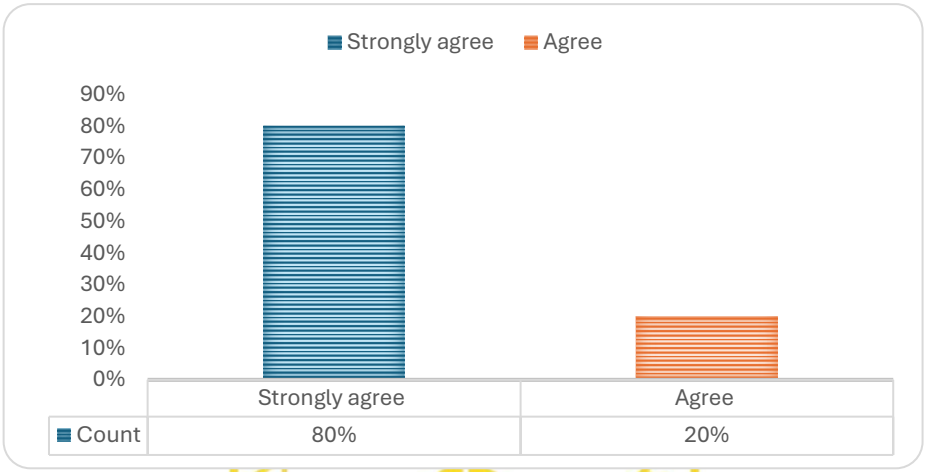
The majority of respondents 96% stated that they have "*lost their-confidence after being denied from working,*" with (71%) strongly agreed (25%) just



agreed. In addition, 3% selected "Neither Agree nor Disagree," while only 1% selected "Strongly Disagree. these findings revealed that most of the respondents have experienced losing their self-confidence after being denied of their fundamental human right in society.

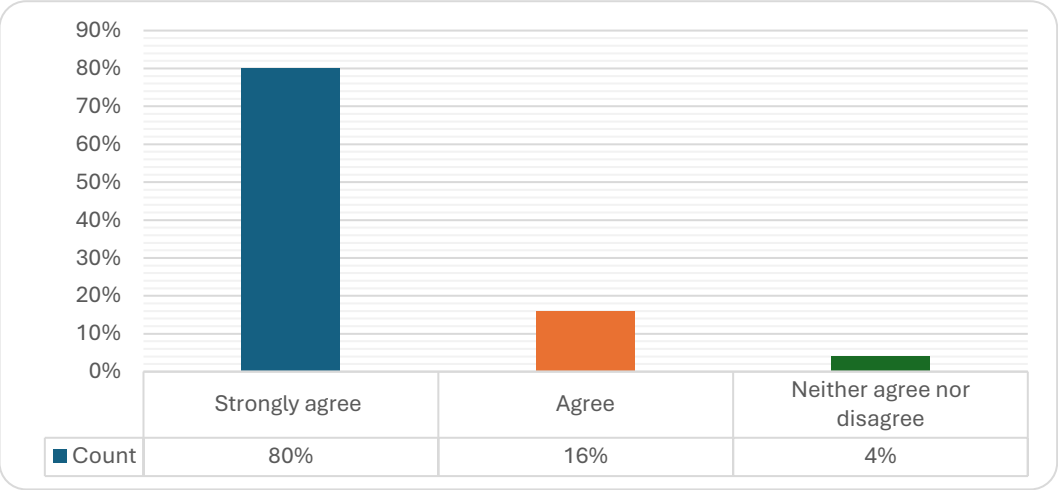
As indicated in the below diagram, all surveyed women reported that they are feeling unseen in society. Overall, 100% of respondents selected either "Agree" or "Strongly Agree," including 80% selected "Strongly Agree" and 20% selected

agree option. The highlighted figures indicates that women did not only lost the sense of self- confidence after being excluded from workforce but also they are dealing with feeling of being invisible in society.

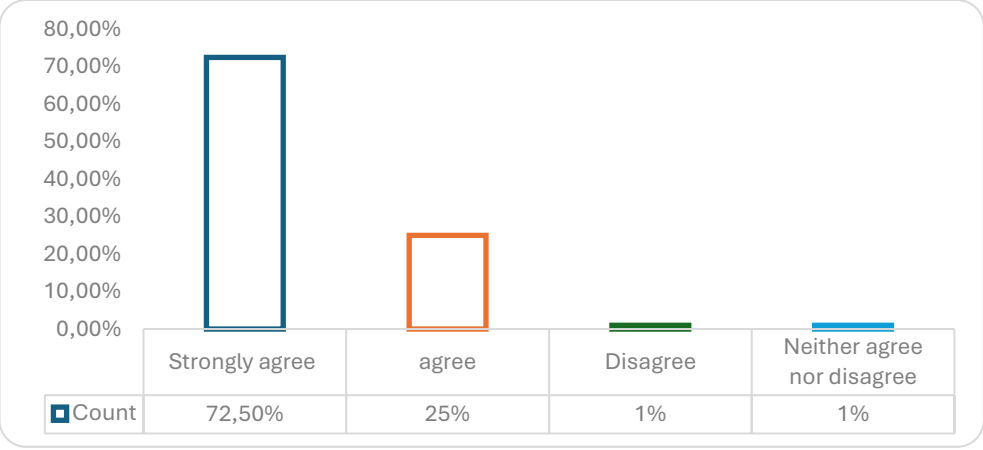


The findings further illustrates the denial of right to work has severely limited women's potential as human being, based on the survey the majority of respondents (97.5%) selected either strongly agree or only agree, with 72.50% indicating "Strongly Agree" and 25% selecting "Agree." In contrast, 1% of the targeted women has selected "Neither Agree nor Disagree," while only 1% selected "Disagree" option.

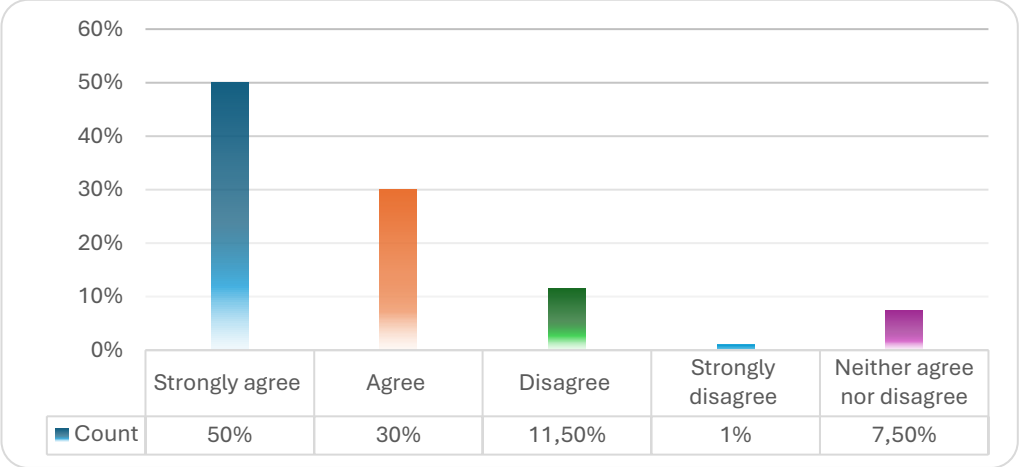
The findings also shows that most of the respondents (96%) either strongly agreed or just agreed indicating that denying women from right to work exacerbates inequality both within their families and across their society as a whole. with 80% selecting “Strongly Agree” and 16% selecting “Agree,”. While, only 4% of the respondent selected “Neither Agree nor Disagree.”



The findings of this survey revealed that a majority of respondents felt they had lost the level of respect and attention after becoming unable to work. Overall, 80% of respondent either selected strongly agree or just agree with the statement,



with 50% being “Strongly Agree” and 30% selecting “Agree.” In contrast, only a small percentage 11% and 1% selected “Disagree “and strongly disagree options respectively. While, 7.50% of participants selected “Neither Agree nor Disagree.”



The findings of this assessment indicates that denial of right to work impacted women beyond economic aspect, based on the findings the majority of women are dealing with severe psychological and social issues which disrupted their everyday lives and made it difficult for them continue having a normal life. Right to employment is one the fundamental right of every human being, and under international law every individual including both women and men equally can exercise this right without any barriers. However, in reality, it has been almost five years since Taliban took over and they have denied women from joining workforce. , it's important to highlight that Afghanistan is the only country, which women are excluded from their very fundamental rights at the moment.

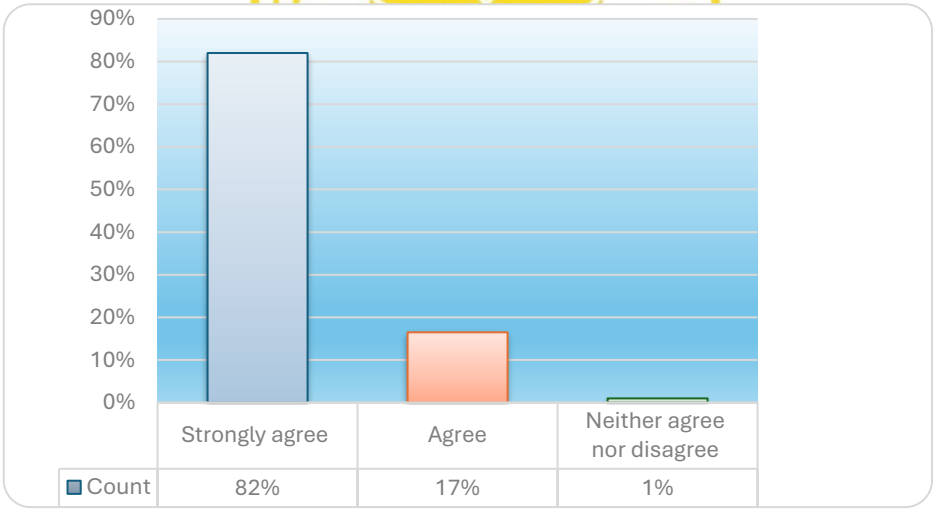
As a result of Taliban's misogynistic and systemic discrimination against women and girls across the country, the data shows that women in the three targeted areas are being severely impacted and almost all of them are dealing with different psychological and social issues, including depression and anxiety, lack of concentration in daily tasks, and sleep disturbances as well as feeling unseen in society.

2. Economic impacts

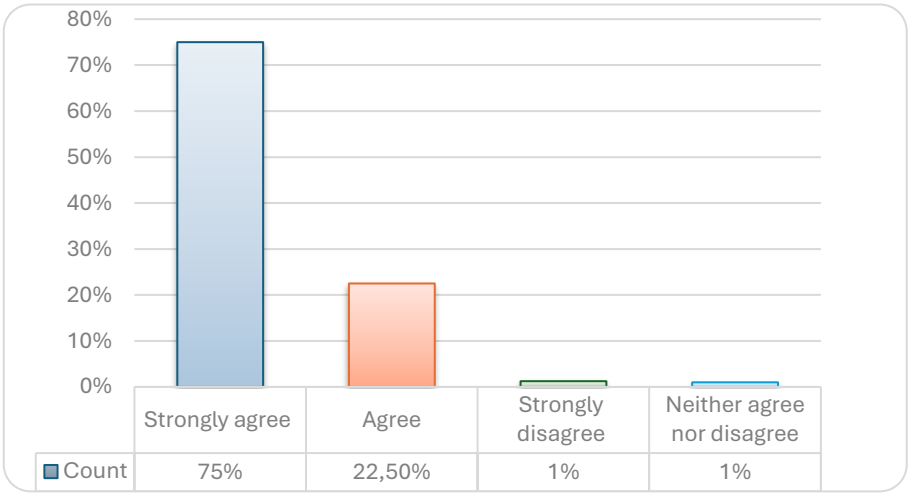
Economically, the effects are equally pronounced, the findings shows that women have been extremely impacted from the economic aspect. Based on

findings, 99% of the respondent indicated that women's employment ban has reduced their family income, over 97% mentioned that the employment restrictions exacerbated poverty, and 96% of the participant highlighted that they become reliant to their male members financially since they lost their jobs. The findings further illustrates that the denial or right to work exacerbated violence within the participants families (79%). In addition, 100% of the respondent mentioned that removal of women from the workforce does not only impact the women but also their households and it consequently contributed to an overall systemic economic decline across families.

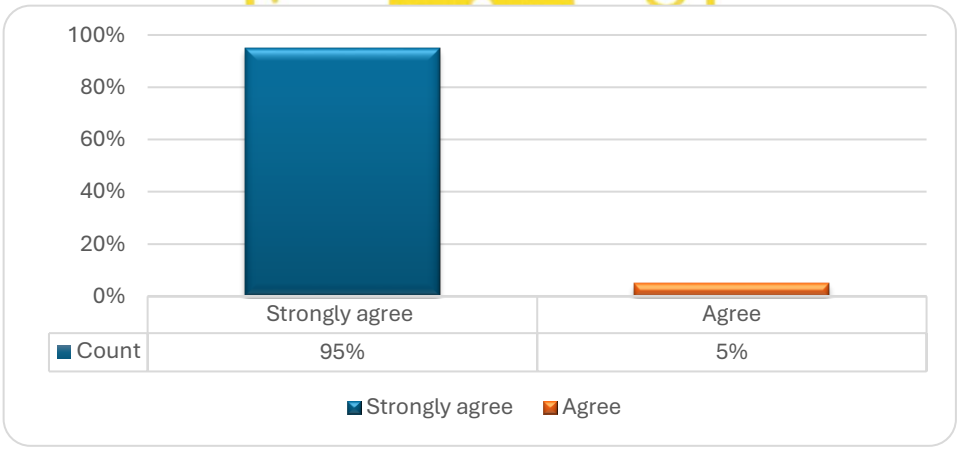
The Majority of respondent 99% of answered that "*Being banned from working has significantly reduced their family's income*," with 82% selected strongly agree, 17% selected "Agree," and only small percentage around 1% highlighted "Neither Agree nor Disagree.



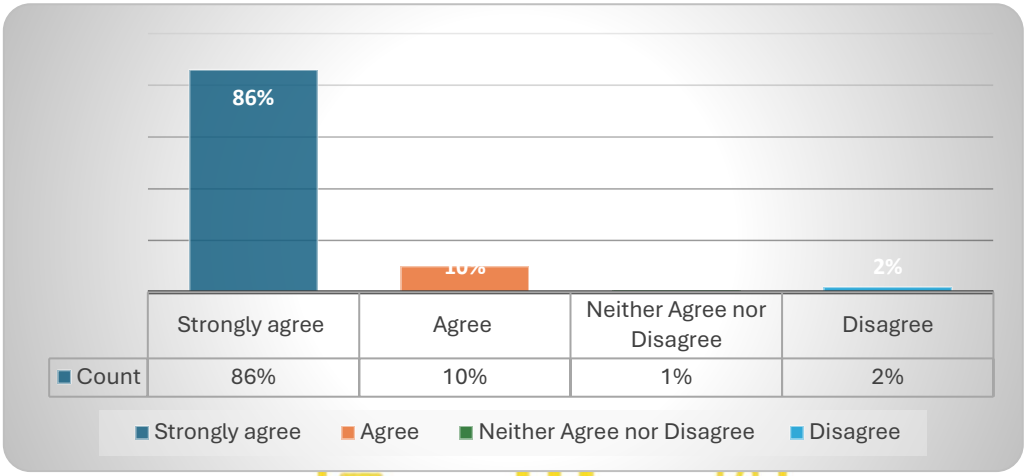
On top of that, 97.50% of surveyed women reported that the employment ban increased the rate of poverty within their families. with 75% choosing "Strongly Agree" and 22.50% choosing "Agree." In contrast, only few number 1% of women selected "Neither Agree nor Disagree," while another 1% of respondent selected "Strongly Disagree" indicated that the employment ban has not really increased the level of poverty in their life.



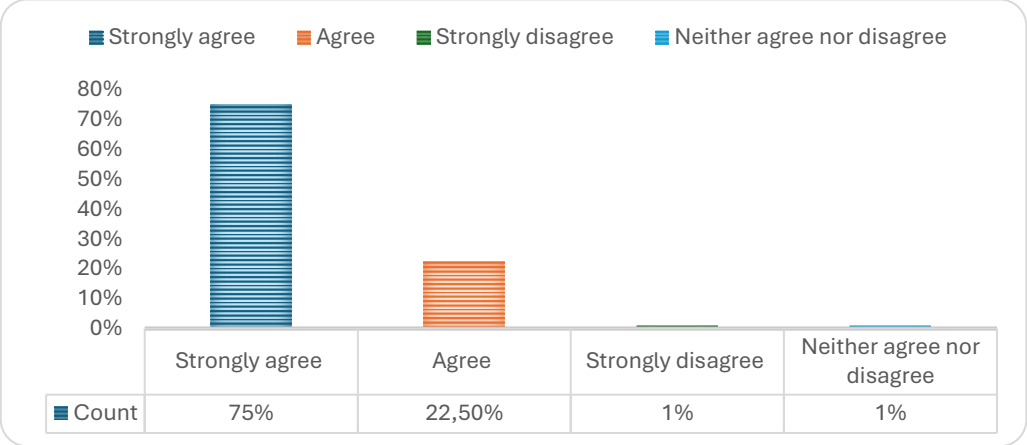
All participants 100% indicated that allowing women to work would improve the overall economic conditions of families, with 95% selecting “Strongly Agree” and 5% selecting “Agree.



The findings of the assessment further revealed that that almost all respondents 96% are no longer able to support their families economically. therefore, they become reliant on their male family members to fulfill their basic needs, with 86% selecting “Strongly Agree” and 10% selecting “Agree,” while, only 1% selected “Neither Agree nor Disagree” and only number 2% selected “Disagree.” This figure shows that almost all women who used to work independently are now unable to fulfill their basic needs thus, they are completely dependent to male member of their families.



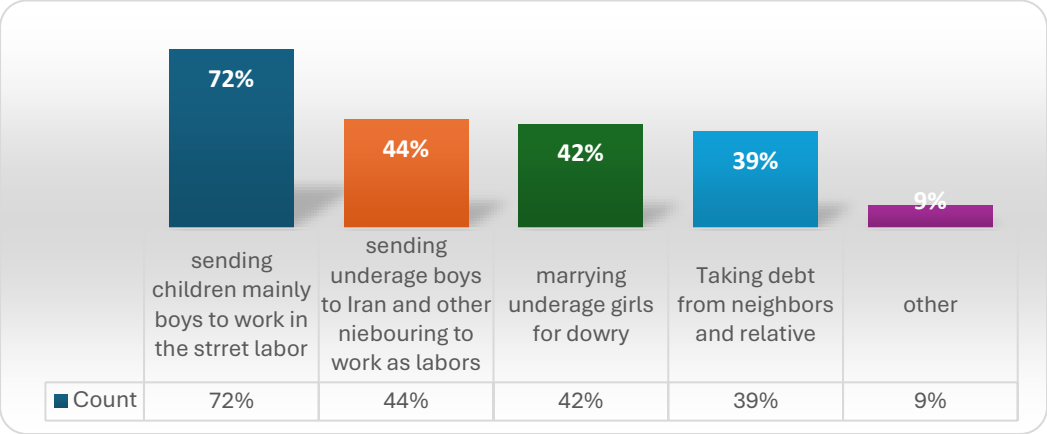
The findings further indicates that the employment bans and losing economic independency has led to domestic violence in some families. Overall, the majority of women 79% either selected “strongly agree” or “agree” option, with 54% strongly agree, 25% agree, 10% neither agree nor disagree and disagree respectively. while, only 1% selected disagree option.



	Strongly agree	Agree	Strongly disagree	Neither agree nor disagree
Count	75%	22,50%	1%	1%

As it was explained, denial of women from work force, has created different financial challenges for women and their families. The findings of the current assessment shows the restrictions exacerbated the poverty and domestic violence among their families.

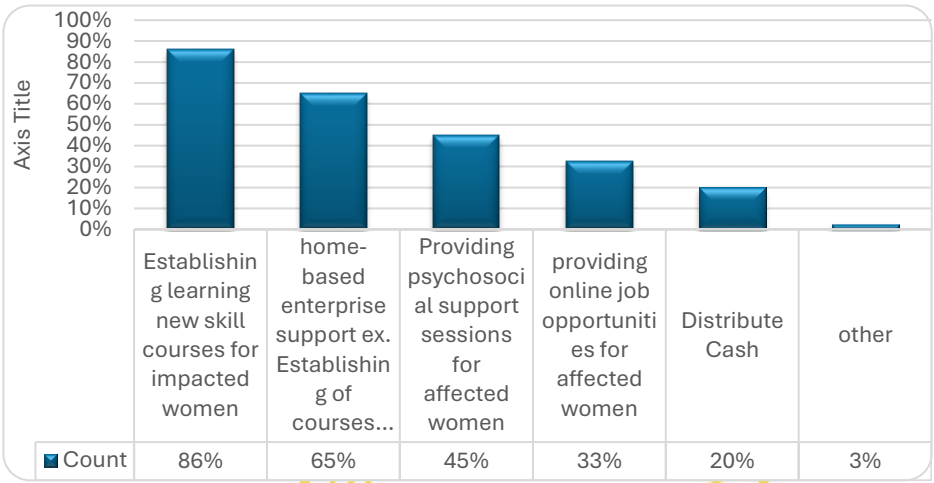
On top of that, the findings further reveled that, Economic hardships led families to use various coping mechanisms which are often harmful for their children. The impacts of denial of women from working sphere has not only limited to women, but it severely jeopardized present and future life of their children as well. For instance, in the circumstances where from one hand, there are few jobs opportunities available for men and from the other hand women are not allowed to work, children are expecting to contribute in fulfilling basic needs of family. The findings shows that in order to cope with the economic hardships, a huge number of Afghan households are relying on a range of harmful-driven strategies. Respondents were allowed to select multiple answers; according to them, in order to survive and over the economic hardships a massive number of families around 72% sent their children, mainly boys to work on the streets as labourers 44% highlighted that they sent their underage boys to neighboring countries such as Iran for work. Furthermore, 42% reported they marry their underage girls for dowry. In Addition, 39% of the respondent reported that they take debt from neighbors and relatives. And only 9% of them indicated the use of other coping mechanisms.



The findings of this current assessment revealed that the prohibition of women from employment has had adverse effects not only on the psychological, social, and economic well-being of Afghan women, but it also negatively impacted their families, particularly their children (the next generation). The survey demonstrates that the imposed restrictions by Taliban has contributed to the marginalization, deprivation, and vulnerability of children both boys and girls by limiting their opportunities to pursue education, while also leading to long-term social and economic setbacks for the country as a whole.

With regard to solutions, the respondents identified a range of measure activities which can support the impacted women and their families. Respondents were allowed to select multiple answers; it's important to mention that the most frequently recommended measure 86% was the provision of providing the opportunity of learning a new skill for affected women. This is mainly because learning new skill will not only help women to generate an income and contribute in fulfilling in their family's basic needs but it also assists them to get ride of the mental issues. 65% of participants recommended home-based enterprise support ex. Establishing of enterprises courses for affected women. Meanwhile, 45% of respondents recommended that in order to get mental health stability, psychosocial support sessions must be conducted for the impacted female groups. 33% of participants indicated that online job opportunities must be provided for them. 20%

of respondent highlighted that they need cash to cope with the economic challenges which they are dealing with and only 3% of women recommended other options.



CHAPTER IV

CONCLUSION AND RECOMMENDATIONS

This chapter presents the overall conclusion of the current thesis based on the legal and empirical analysis undertaken in the preceding chapters. It synthesizes the findings concerning women's right to work under international human rights law and the corresponding obligations of the Taliban as the *De facto authority* in Afghanistan. The chapter further identifies the key legal and practical implications arising from the findings and proposes recommendations aimed at strengthening the protection and reversal of employment bans towards Afghan women's right to work. Finally, the chapter provides the references utilized in this document.

A. Conclusion

Right to employment is a basic human right endorsed by international human rights laws, and recognized by various global treaties, such as the ILO Convention on Discrimination in Employment and Occupation, 1958 (No. 111), the Equal Remuneration Convention, 1951 (No. 100), the Universal Declaration of Human Rights (UDHR) 1948, and the International Covenant on Economic, Social and Cultural Rights (ICESCR). These instruments collectively declare that every person possesses the freedom to freely select and earn a livelihood through employment without any discrimination.

It's important to note that based on findings of current thesis, the right to work goes beyond just a chance of having a job and generating an income. this is mainly because right to work has been interconnected with various other essential human rights, such as the right to dignity, the right to a sufficient standard of living, the right to personal development and right to life. having access to employment right, empowers individuals not to only attain financial autonomy, engage comprehensively in societal activities, but also fulfill their inherent capabilities as human being. The findings of the current research have been concluded in three separate parts:

1. After Taliban regained power in August 2021, they have violated all aforementioned provisions of international human rights law by deliberately and systematically denying of Afghan women from right to employment. through various discriminatory decree imposed by Taliban, they have prohibited women completely from involving into workforce spheres in both public and private domains. These restrictions not only limit women's financial autonomy but also impair Afghanistan's commitments towards international human rights legislation, especially the principles of equality, non-discrimination, and the right to employment as assured by the aforementioned international agreements.

2. Concerning the Taliban's adherence to international human rights as a non-state actors, it is crucial to note that states are predominantly the primary responsibility bearers in matters of human rights. Nonetheless, the findings of current research revealed, that contemporary notions and academic interpretations, including effective control, general responsibility and international practice, are significant. Non-state entities functioning as *De facto* rulers with significant authority over a territory are mandated to respect and uphold human rights. Consequently, it can be concluded that Taliban, as non-state entities are to fulfill human rights and more importantly stop violation of women's right to work.

3. Prohibiting women from joining work sphere has negatively impacted women's life in many aspects such as psychological, economic and social. The finding of the current research paper shows that denial of right to work led women to experience various challenges. For instance, tremendous number of Afghan women are facing mental health issues such as anxiety, depression and so on. data also revealed that, employment ban does not only intensify the poverty and violence rate among family, but it decreased their potential and capability as human being. On top of that the impact of denial of right to work Is not limited to women only; in order to deal with the economic hardships, Afghan families use various coping mechanisms which are often harmful mainly for their children. For instance, the findings of this document show that, apart marrying their daughter at early ages for dowery, huge number of affected families are sending their boys to work in the

streets as well as in the neighboring countries. Meanwhile, the data further revels that, denying women from working has exacerbated inequality within their houses and society.

B. Recommendations:

1. Recommendations for the *De facto Authority* (Taliban)

Removing the employment restrictions: Based on the findings of the current thesis, denying women from workforce is a discriminatory act which explicitly violates International human rights law. As my first recommendation, Taliban must immediately end all regulations and policies that limits or ban women from employment in both public and private domains. As *De facto authority* and in alignment with Afghanistan's commitments under international human rights legislation, notably the ICESCR, CEDAW, and applicable ILO treaties, They are obliged to protect women's rights and in particular make sure that all Afghan women can exercise their right to work same as men.

2. Recommendations for the United Nations

Recognition and Clarification of the Human Rights Responsibilities of *De Facto Authorities*: According to the findings of this research, the denial of Afghan women's right to work by Taliban is a discriminatory practice that is explicitly incompatible with international human rights law and violates the rights recognized under international human rights instruments. Meanwhile, it's important to note that the lack of explicit international legal provisions which comprehensively define the human rights obligations of non-state actors/ *De facto authority* has contributed to an accountability gap, which allowed de facto authorities such as the Taliban to violate fundamental human rights in particular right to work of women in Afghanistan. In light of these findings, this study recommends that the United Nations Human Rights Council, the Office of the United Nations High Commissioner for Human Rights (OHCHR), and the International Law Commission continue to promote and further develop legal principles recognizing the human rights obligations of non-state actors/ *De facto authority* exercising

effective territorial control. In particular, these institutions should work towards clarifying the minimum human rights obligations applicable to de facto authorities and developing a more coherent legal framework which specifies their responsibilities under international human rights law. Such clarification would help reduce existing accountability gaps, lack of formal international recognition must not cause the citizens to pay the price.

Travel bans on Taliban authorities: right to work must be a redline and a nonnegotiable, meaning that UN and the rest of the international communities must push Taliban and force them to remove bans imposed on women's right to employment. In case Taliban does not accept the reversal of bans, sanction such as further travel bans can be imposed for Taliban authorities. Despite the fact that 135 members of Taliban were banned from traveling abroad by United nation security council while later, 15 of them were removed from list to facilitate the peace talks. It's important to note that reversing travel bans will Assur them to continue their discriminatory acts towards women without facing any repercussions. Thus, UN security council must take the necessary actions and make sure to prevent any engagement of state members with Taliban by imposing further bans on them.

Establishing Accountability mechanisms: Based on the reports until 2024, Taliban have received 1.593 billion dollars from the United Nations and its member states, but there is no any clear reports showing that where and how this money was spent. There is no positive changes in Afghan people's lives, the rate of unemployment and poverty is increasing day by day. Therefore, establishing of a robust accountability mechanisms is the key, it should be demonstrated that how aids were distributed and who benefited from it. Having a robust accountability system will help to prevent misuse of global funds by Taliban, it's important to note that lack of this system enable Taliban to prioritize their personal interest including empowering their regime rather truly assisting vulnerable people in particular women and girls in the country. Taliban have highlighted that they do not have a major income source apart from international aids. Thus, providing international aids can be used as harness resource to prevent further discrimination policies and

acts towards women and girls in Afghanistan. tying global funding can play a crucial role in reducing discriminatory policies and actions implemented by Taliban, this is mainly because Taliban cannot survive without receiving external funds. This Monitoring system must record women's rights condition in general, and right to work in particular. For instance, providing regular reports from right to employment of women by human right's focused organizations such as human right watch are the key. In addition to that, conditionalizing the international aids are crucial, because Taliban regime does not have the sufficient financial power to survive without the external budget which is coming by the international communities.

3. Recommendation for the International organizations

Focus on home-based and remote work opportunities: As temporary solution, international community including United nation must focus on empowering Afghan women through creating more online and remote work options for women. Based on the findings of the current survey, huge number of the responded recommended online work and enterprise courses as a supporting mechanism for dealing the current limitation and restrictions imposed by Taliban. In addition to that, if there is any possibility of offline work in some parts of the country, it be taken in to consideration. This is mainly because, this initiative would not only enable women to exercise their right of employment, generate income but also provide them a dignified life without poverty and violence.

Online women empowerment Initiatives: Empowering women through implementing some essential educational programs such as trainings can play a critical role in improving women's overall condition particularly in mental health area. The findings of this survey shows that tremendous number of women are facing mental health issues as result of being denied from society. On top of that through the survey done highlighted that majority of the respondents recommended psychological sessions as one option which can improve their mental condition. Therefore, conducting psychological session vital.

4.Recommendation for the States:

Prioritizing and incorporating of women's right to work: Considering the fact that now some states including Pakistan, United Emarat's of Arab, Russia and others around the world are interacting with the Taliban, i recommend them to incorporate human rights in particular women's right to work standards into their diplomatic efforts and interactions. Any normalization of relations must be paired with tangible advancements in women's rights, particularly the elimination of barriers to women's employment.

Advocating for the women's right to employment: It is highly recommended to Mobilize Ulama and religious leaders from both inside and outside of the country in particular progressive Islamic countries such as Indonesia and Malysia to advocate for removing of employment bans against women in Afghanistan. Taliban claim that they are following and implementing Sharia Law, thus, Ulama plays a critical role in providing Islamic justification and argument in reshaping the ideology of Taliban towards women and girls. For instance, Kongres Ulama Perempuan Indonesia (KUPI) which is an Islamic scholars (ulama) forum that focuses on Islamic scholarship, gender justice, social issues, and women's rights and Parti Islam Se-Malaysia (PAS) forum in Malaysia can advocate and pursued Taliban as Muslims on their responsibilities as rulers towards women and girls

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